

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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World Report 2009 Introduction By Kenneth Roth

Faced with a public security crisis involving high levels of violent crime, some Brazilian police forces engage in abusive practices instead of pursuing sound policing policies. Detention conditions in the country are inhumane. Torture remains a serious problem. Forced labor persists in some states despite federal efforts to eradicate it. Indigenous peoples and landless peasants face threats and violence in rural conflicts over land distribution.

Brazil's metropolitan areas are plagued by widespread violence perpetrated by criminal gangs and abusive police. Violence especially impacts low-income communities. Nearly 50,000 homicides occur each year in Brazil.

In Rio de Janeiro, hundreds of low-income communities are occupied and controlled by gangs, which routinely engage in illegal drug trafficking, acts of extortion, and violent crime.

Police violence, including extrajudicial executions, is a chronic problem. For example, in the state of Rio de Janeiro, police were responsible for approximately one out of every five intentional killings in the first six months of 2008, according to official statistics. Police allege that such killings occur in confrontations with criminals, and register them as "acts of resistance"-757 police killings were registered as such in Rio de Janeiro state (an average of four per day) in the period January-June 2008. There are also reports of indiscriminate shootings by the Rio de Janeiro police, particularly during so-called mega-operations in low-income neighborhoods. In August 2008, United Nations Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions Philip Alston called the mega-operations in Rio de Janeiro "murderous and self-defeating."

Abuses by off-duty police also occur. For example, of all homicides in the state of Pernambuco, prosecutors estimated 70 percent are committed by death squads, which are believed to include police officers among their members. Militias controlling several dozen of metropolitan Rio de Janeiro's low-income communities include off-duty police officers among their members. In one such community, Favela Batan, a resident and three employees of the newspaper *O Dia* conducting an undercover investigation into militia activities were reportedly kidnapped and tortured by militia members in May 2008. The captives endured beatings, suffocation, electric shocks, Russian roulette, threats of sexual assault, and death threats. Following a media outcry, at least two militia members have been arrested-including their alleged leader Odnei Fernando da Silva, a Civil Police inspector-and are awaiting trial.

Torture remains a serious problem in Brazil. The official report of the 10-month multiparty National Parliamentary Commission of Inquiry on the Penitentiary System, finalized in July 2008 and based on evidence collected from all 26 states plus Brasilia, concluded that the national detention system is plagued by "physical and psychological torture." In one case from Gois, the commission received evidence that the National Security Force subjected female detainees to kicks and electric shocks, stepped on the abdomen of a pregnant woman, and forced another woman to strip naked. The commission further noted that it received reports of torture at every single center it inspected. In six states-Rondonia, Piau, Mato Grosso, Cear, Maranhao, and Gois-"as well as in many others," the commission documented the presence of "torture scars" on prisoners. The report also found beatings to be "routine in Brazilian jails." There are also abuses in juvenile centers. In Rio de Janeiro in January 2008, 17-year-old Andreu Lus da Silva de Carvalho was reportedly tortured to

death by guards of the juvenile detention system, the General Department of Socio-Educational Actions.

The inhumane conditions, violence, and overcrowding that have historically characterized Brazilian detention centers remain one of the country's main human rights problems. Delays in the justice system contribute to overcrowding. According to official statistics, the inmate population has grown to 440,000 (a growth of over 40 percent in five years), approximately 43 percent of whom are pretrial detainees. There is credible evidence that some judges and prosecutors are deficient in fulfilling their inspection mandates.

In January 2008, 119 female prisoners were reportedly being held in a partially roofless jail cell built for 12 in Monte Mor jail in Sao Paulo, with less than one square meter per person. Reportedly, four of the women were pregnant, and one remained in the jail postpartum with her newborn for two days. Dozens of the women were transferred after the media broke the story. There have been reports of women and girls being incarcerated with men in violation of international standards. For example, in November 2007 in the state of Par, an adolescent girl was repeatedly raped at a police station in Abaetetuba while locked in a cell with roughly 20 men for at least 15 days.

In the state of Rondonia, despite six provisional measures issued by the Inter-American Court of Human Rights mandating that Brazil protect inmates at Urso Branco prison, more than 100 inmates have been murdered there since the first such measures were issued by the Court in 2002. In October 2008 the attorney general moved to have Urso Branco subjected to a federal takeover due to the chronic problems there.

Since 1995 the federal government has taken steps to eradicate forced labor, including creating mobile investigation units to monitor labor conditions in rural areas. However, the Pastoral Land Commission collected reports of 8,653 persons in conditions of forced labor in 2007. Of these, 5,974 were reported as having been freed. The federal government has made positive strides in its efforts to combat forced labor, but criminal accountability for offending employers remains relatively rare.

Indigenous peoples and landless peasants face threats and violence as a result of land disputes in rural areas. According to the Pastoral Land Commission, 28 people were killed and 428 arrested in rural conflicts throughout the country in 2007. In March 2008, Welinton da Silva, a leader of the Landless Rural Workers' Movement, was reportedly shot at and wounded in the leg while protesting at a quarry in the state of Maranhão.

Ensuring accountability for human rights violations remains a major challenge. In a widely followed case, Vitalmiro Bastos de Moura (Bida), the farmer alleged to have ordered the 2005 killing of Dorothy Stang, a missionary who advocated for agrarian reform, was acquitted in May 2008. The decision was questioned by two Supreme Federal Court justices and others in the federal government, including President Luiz Inácio Lula da Silva. In another case, in January 2008, the criminal investigation into the 1998 killing of Paran land reform activist Stimo Garibaldi was formally shelved, without anyone having been found responsible.

Brazil has never prosecuted those responsible for atrocities committed during its period of military dictatorship (1964-1985). The 1979 amnesty law has thus far been interpreted to bar prosecutions of state agents. However, at this writing, the Supreme Federal Court is considering a challenge to this interpretation of the amnesty law presented by the Brazilian Bar Association, which maintains that the amnesty does not cover crimes such as torture committed by government agents. In addition, federal prosecutors have made formal requests that criminal investigations against some individuals suspected of dictatorship-era abuses be commenced in Rio Grande do Sul, Rio de Janeiro, and Sao Paulo. In a landmark ruling in October 2008, a civil court in Sao Paulo found Col. Carlos Alberto Brilhante Ustra civilly responsible for acts of kidnapping and torture during his time as director of a dictatorship intelligence agency in Sao Paulo in the 1970s.

Some human rights defenders, particularly those working on issues of police violence and land conflicts, suffer intimidation and violence. Human rights lawyer Joo Tancredo survived an attempt on his life by two unidentified gunmen in Rio de Janeiro in January 2008. State legislator Marcelo Freixo has received death threats for his work as president of the Rio de Janeiro Legislative Assembly's Parliamentary Commission of Inquiry into militias. Joinville Frota, a trade unionist in Amapá, reported receiving death threats in May 2008 in connection with strike activities.

In Brazil, abortion is legal only when performed by a medical doctor in order to save the life of the pregnant woman or when the pregnancy is the result of rape. Criminal investigations into women's health clinics in Mato Grosso do Sul, Sao Paulo, and Rio Grande do Sul have raised serious privacy concerns. In an ongoing 2007 criminal case from Mato Grosso do Sul, for months private medical records of thousands of women were reportedly made accessible to members of the public upon request to judicial authorities.

The Inter-American Court of Human Rights ruled in May 2008 that Brazil had not fully complied with the 2006 judgment in the Damio Ximenes Lopes case. Though reparations were paid to the Ximenes family, no one has been convicted for the 1998 torture and killing of Damio, a psychiatric patient in Ceará. The court further ordered the government to undertake reform measures aimed at preventing future cases like this one.

In December 2007 an Italian court requested the extradition of 11 Brazilians in connection with the enforced disappearance of Italians carried out as part of the dictatorship-era Operation Condor. In response, the Lula government has stated that the constitution bars the extradition of native-born Brazilians.

In a positive development, in August 2008 Brazil ratified the United Nations Convention on the Rights of Persons with Disabilities. During its Universal Periodic Review before the UN Human Rights Council in April 2008, Brazil pledged to implement recommendations made by the UN Committee Against Torture and the UN Human Rights Committee.

Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice

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