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Human Rights Watch World Report 1998

BRAZIL

Human Rights Developments

Several well-publicized incidents of police brutality and corruption constituted the principal human rights developments in 1997 in Brazil. Despite encouraging good faith efforts by many authorities, including at the federal executive level, human rights violations continued to be severe and varied.

On March 31, Brazil's widely viewed television news program *Jornal Nacional* broadcast an amateur video showing military police extorting, beating, torturing, and humiliating persons randomly stopped at a roadblock in Diadema, a working class suburb of So Paulo. In one scene, the police without provocation shot and killed an unarmed passenger in a car after a random stop. The explicit images, which were filmed on at least two separate occasions, sent shock waves throughout Brazil and the world. The videos confirmed what human rights groups had been reporting about the frequently violent and unprofessional nature of military police in So Paulo. Subsequent journalistic investigations revealed that dozens of complaints about these kinds of violence and corruption had been lodged with police authorities in Diadema in the months preceding the March televised incident, without results.

A week later, on April 7, the same national news program exhibited another amateur video, this time depicting extortion, severe beatings, and humiliations inflicted by the Rio de Janeiro military police in Cidade de Deus, a poor community on the city's outskirts. The Cidade de Deus video shifted the focus of debate to the national nature of the problem, as well as to programs of the Rio State Secretariat of Public Security that promoted and paid bonuses to police officers involved in acts of bravery. In the days following the video's airing, reports surfaced demonstrating that three of the six policemen involved were receiving monthly pay bonuses for bravery. In the midst of this debate, Human Rights Watch noted, in a detailed report released at this time that, in practice, "bravery" bonuses were awarded to police officers that had killed criminal suspects, regardless of the circumstances. Human Rights Watch's research showed that in a one-year period, from May 1995 to April 1996, at least 179 police officers were promoted in Rio de Janeiro in connection with incidents that claimed the lives of seventy-two civilians and six police officers. The victims' autopsy reports showed that in some of these cases, they were the victims of summary executions, rather than shootouts, as the reports authorizing bravery rewards contended.

Throughout 1997, Rio de Janeiro authorities continued to promote and pay bonuses to police involved in acts of bravery. In April, the Bar Association of Rio de Janeiro, citing the Human Rights Watch report, filed an unsuccessful challenge to the constitutionality of the bravery measures in state court. Following reports in September in Rio dailies to the effect that fourteen ranking military police officers indicted for their involvement in a gambling racket had received pay raises and promotions for bravery, State Representative Carlos Minc introduced legislation into the Rio State Legislative Assembly seeking to limit the bonuses and promotions to police not facing indictment for serious crimes. In October, the Superior Institute of Religious Studies (Instituto Superior de Estudos Religiosos, ISER) a leading nongovernmental organization (NGO), released a report demonstrating that the Rio police had killed at least 942 civilians in the period from January 1, 1993 through July 31, 1996. The ISER study included analysis of the autopsy reports demonstrating that at least forty of these 942 civilians had been shot at point-blank range. Figures regarding the high incidence of bullets to victims' heads and chests and the percentage of shots from behind suggested that the number of summary executions may well have been substantially higher. The study also demonstrated that the number of persons killed by the police in the city of Rio rose from sixteen per month prior to May 1995, when the current public security secretary, Gen. Nilton Cerqueira, assumed control of Rio police forces, to thirty-two per month afterwards. In this same period, the Rio police killed 3.4 times as many civilians as they wounded.

Despite attention focused on the So Paulo military police due to the Diadema incident, official figures showed that in 1997 military police killings of civilians in the state continued to decline. In the first eight months of 1997, military police in the So Paulo metropolitan area killed eighty-six civilians while on duty and fifty-one more while off duty. In those same eight months, the military police suffered eight fatalities on duty and twenty-four off-duty deaths. In 1996, the number of civilians killed by military police in So Paulo, both on and off duty had fallen to 183, the lowest full-year total in a decade. Twenty-seven police (twenty-one while off duty) were killed during this same period. By contrast, four years earlier, in 1992, the military police killed 1,190 civilians in So Paulo while suffering fifty-five fatalities. These reductions were widely believed to be related to the creation and continued operation of the Office of the Ombudsman for the Police, as well as a state program (Programa de Acompanhamento de Policiais Envolvidos em Ocorrências de Alto Risco-PROAR) that required police officers to be removed from street duty, at least temporarily, when involved in fatal shootings. In December 1995, the State Secretariat of Public Security had extended the PROAR program to include police officers involved in killings while off duty.

Nonetheless, throughout 1997, So Paulo police violated basic human rights. On May 20, military police stormed the Fazenda da Juta housing complex, which had been occupied by squatters for several months. When the squatters resisted eviction by throwing rocks and sticks, the police, not specially trained for such operations and without adequate equipment such as shields and helmets, fired at the squatters, killing three. One of the victims was killed by a single bullet to the back of the head, suggesting a summary execution. Another squatter was killed by bullets to the chest, which a police officer contended he fired in self-defense after being knocked to the ground. The coroner's report, however, indicated the victim had been shot twice through the chest in a straight line, casting doubt on the police officer's version of events.

In September, the involvement of two So Paulo military police officers in the kidnapping and murder of an eight-year-old boy prompted the State Secretary of Public Security to fire the commander of the State Military Police. During the same week, in Brasilia, military police officers orchestrated the kidnapping of the young daughter of a federal congressman, who was released after a rescue operation. These two incidents once again prompted intense debate on the issue of police violence and corruption.

In April and May, shortly after the images in Diadema and Cidade de Deus aired on television, a special state parliamentary inquiry in Minas Gerais state gathered

evidence of the widespread practice of torture in police precincts in Belo Horizonte. Members of the state parliamentary inquiry commission appeared in one infamous precinct with a video camera and filmed a room that detainees had described as a torture center. The video corroborated the statements given to the parliamentary commission both in terms of the location of the torture center and its characteristics: the room included rivets to hang a "parrot's perch," a bar on which prisoners are extended during torture sessions, and a water faucet and two exposed wires, presumably used for electric shock torture. Despite this and other evidence, Minas Gerais Gov. Eduardo Azeredo denied that the police in Minas Gerais practiced torture and refused to order a full investigation.

Two months later, the Minas Gerais military police organized a massive strike. Demanding higher wages-military police in Minas Gerais received a starting wage of roughly U.S.\$400 per month-the police organized a strike that paralyzed the state for two weeks in June. By the end of the month, the governor ceded to the striking police officers' demands, authorizing a 50 percent base salary hike. The Minas Gerais dispute touched off similar protests or wage demands in more than a dozen other Brazilian states in July and August.

Prompted by this police unrest as well as increasing popular and media attention to the severe problem of police corruption and violence, a national working group led by newly appointed National Secretary for Human Rights Jos Gregori studied needed changes to improve public security throughout Brazil. In September, as a result of the work of these groups, President Fernando Henrique Cardoso proposed a series of legislative and constitutional modifications in police structure, including an amendment to eliminate military courts entirely, to authorize the states to unify the civil and military police should they so choose, and to protect witnesses to incidents of police abuse. If implemented, these measures could significantly reduce the incidence of gross human rights violations committed by state agents. However, it was unclear whether these reforms would be given priority by Brazil's Congress, whose record for enacting human rights measures continued to be poor in 1997. At this writing, the legislative package is still pending in Congress. So, too, are dozens of other important proposals included in the National Human Rights Plan, released on May 13, 1996. Since then, the Brazilian Congress managed to approve only a handful of measures. Apart from a law criminalizing torture passed in the wake of the Diadema incident, the only other public security reform passed by Congress since the plan's release was Law 9.437, which criminalized illegal weapons possessions, signed into law on February 20.

Prison conditions throughout Brazil continued to violate international standards in 1997. The primary violations involved official violence directed against detainees or complicity in prisoner-against-prisoner violence; overcrowding; unsanitary conditions; and lack of access to recreation, education and other benefits. Substandard conditions were exacerbated in police precincts' detention centers, where prisoners were held for months and even years. In So Paulo, nearly 30,000 detainees were held in precincts, which according to the most generous official estimates, had capacity for fewer than 16,000. The So Paulo daily *Folha de S. Paulo* reported eighty rebellions in precincts and eleven more in penitentiaries in the state in the first six months of 1997, up from seventy-one rebellions in precincts and eight in penitentiaries in all of 1996. By early October the number of revolts in penitentiaries rose to fifteen. In September, So Paulo authorities announced the signing of contracts to build seven prisons with a total capacity for 5,544 detainees. If completed on schedule, along with the planned construction of fourteen more prisons, these centers of detention would provide space for an additional 17,520 prisoners by the end of 1998.

To their credit, So Paulo authorities rarely used deadly force to control prison and precinct rebellions. This was not always the case, however, in all of Brazil in 1997. On July 29, military police entered the Rger penitentiary in Joo Pessoa, Paraba, to end a prison riot in which a group of prisoners had seized the warden, three guards, and two fellow prisoners as hostages. Subsequent medical examinations demonstrated that seven of the eight prisoners killed had been severely beaten and likely tortured and then summarily executed, a conclusion that the state governor himself accepted. Two months later, military police responded to another rebellion in the same facility killing one detainee. Investigations by the Joo Pessoa municipal human rights commission showed that the prisoners were armed with sticks and that the police response was, at a minimum, disproportionate. In October, two more prisoners were killed during an escape attempt.

The problem of prison and precinct overcrowding was exacerbated in 1997 by the existence of prisoners held in these detention facilities beyond the terms of their sentences. In September, ad hoc investigatory commissions composed of members of the State Bar Association, the State Attorney General's Office and representatives of the State Legislative Assembly documented irregularities observed during surprise visits in the state of So Paulo. For example, the ad hoc commissions found several detainees held beyond the terms of their sentences, scores of others eligible for parole or early or day release programs, as well as one case of a detainee held for more than two years based on a provision which allows thirty-day renewable detention periods.

In 1997, rural conflicts continued to seize headlines as the Movement of Landless Rural Workers (Movimento dos Trabalhadores Rurais Sem Terra, MST) intensified its efforts to force the government to take land reform measures. In numerous incidents throughout 1997, land occupations by the MST and other groups of landless resulted in armed conflicts. According to the Pastoral Land Commission (Comisso Pastoral da Terra, CPT), through mid-October 1997 twenty-five civilians had been killed in these land conflicts. While in 1996, the military police were responsible for most of those killed in land conflicts (including nineteen squatters in a single incident in El Dorado do Carajs on April 17, 1996), in 1997, according to the CPT, hired gunmen killed a much greater proportion of the victims in land disputes.

Figures for 1996 and partial figures for 1997 demonstrated an increase in both the number of land disputes and the violence practiced in their resolution. In 1996, forty-six individuals were killed in land conflicts, an increase from the thirty-nine deaths in conflicts registered in 1995. The CPT also registered a significant rise in the number of conflicts in 1996 (653) compared to 1995 (440), as well as the number of persons involved, which rose from 318,458 in 1995 to 481,490 in 1997. Although figures for 1997 were not available, the CPT reported that throughout the year, this trend of escalating land conflict and increasingly violent resolution continued in 1997.

A positive development in the campaign against rural violence and impunity was the June 27-29 jury trial and conviction in Imperatriz, Maranh state, of three landowners for ordering the 1986 targeted assassination of Father Josimo Moraes Tavares, regional director of the Pastoral Land Commission. Landowners Guiomar Teodoro da Silva, Adailson Gomes Vieira and Geraldo Paulo Vieira, arrested in 1994 and held in pre-trial detention since then, were sentenced to fourteen, eighteen and nineteen years' imprisonment, respectively. The conviction of the crime's intellectual authors in this case was exceptional: according to the CPT, of 976 land-related killings and 891 cases of attempted homicide registered from 1985 through the beginning of 1997, only fifty-six cases had gone to trial. In only fourteen of the trials, those who ordered the killings were prosecuted, with seven cases resulting in convictions.

In an unfortunate use of the criminal justice system against land reform activists, a trial court in Pedro Canrio, in the eastern state of Esprito Santo, convicted landless leader Jos Rainha on June 10 for the 1989 murders of landowner Jos Machado Neto and military police officer Srgio Narciso. Despite overwhelming evidence that Jos Rainha was hundreds of miles away when the killings occurred, the jury convicted, and the presiding judge sentenced him to twenty-six-and-a-half years in prison, on the grounds that he organized the land occupation and helped the peasants leave after the murder. Witnesses on Rainha's behalf included a military police colonel from Cear, the former agriculture secretary for Cear (now a federal congressman), and other elected officials from Cear, all of whom testified that Rainha was in Cear and not Esprito Santo during the time of the land conflict. The trial was tainted by other irregularities, including the presence of several persons on the jury with ties to one of the victims. At this writing, no date has been set for Rainha's second trial, guaranteed to him under Brazilian law.

Forced labor, the practice whereby laborers are recruited with false promises of high wages and then maintained against their will in work camps, continued to occur in 1997, although at rates believed lower than prior years. The CPT's figures for 1996 showed a significant decline in the number of victims involved in forced labor compared with 1995. While the number of cases of forced labor fell only slightly from twenty-one to nineteen, the number of victims plummeted from 26,047 to 2,487. This dramatic decrease was widely believed to be the result of joint programs of civil society, principally the CPT and rural labor unions, and the federal government's Ministry of Labor, particularly in the state of Mato Grosso do Sul. In that state, in which thousands had been held captive in coal pits in prior years, efforts to eliminate forced labor proved successful. In Minas Gerais, the work of a parliamentary commission of investigation helped reduce the number of victims of forced labor from 10,040 in 1995 to 790 in 1996.

In September, federal authorities announced plans to expropriate lands used for forced labor. The minister of land affairs announced that those workers who had been forced into debt bondage at the Flor da Mata estate in So Flix do Xingu, southern Par state in the Amazon region, would be settled on the estate and that the government would follow this new policy with other areas in which forced labor is practiced. Legal experts, however, argued that such expropriation was beyond the authority of the federal government and required the enactment of legislation specifically authorizing such expropriations. At this writing, legislation that would empower the federal government to expropriate land used for forced labor operations is pending in Congress.

After convictions in April and November 1996 in the first two trials of military police officers involved in the July 1993 murder of eight sleeping children and

adolescents in the Candelaria plaza in downtown Rio, prosecution efforts suffered serious setbacks in late 1996 and 1997. First, in December 1996, two police officers and one civilian were acquitted after the prosecution failed to press the case against the defendants despite strong evidence, including witness statements, attesting to the involvement of two of the men. Then, in April 1997, former police officer Nelson Cunha, who had been convicted in November 1996 and sentenced to 261 years in prison, was acquitted of all homicide charges by a second jury. This, despite Cunha's confession that he was in the car with the killers and that he personally shot and injured survivor and key witness Wagner dos Santos in the head. Cunha, who admitted pointing the gun at the youth's head, claimed the gun went off accidentally as the car was moving. Cunha continued to serve a separate sentence of eighteen years for attempted murder based on his initial conviction.

For other high-profile massacres, impunity continued to be the rule. More than five years after the 1992 massacre at Carandiru prison, where 111 prisoners were killed, no one was brought to trial, although the case had been transferred from the military to the ordinary courts. The prosecution of police responsible for the August 1993 massacre of twenty-one residents of the Vigrio Geral favela in Rio de Janeiro inched forward in 1997. In April, a jury in Rio convicted former military police officer Paulo Alvarenga, the first of more than fifty defendants to be tried, to more than 400 years in prison, of which he will have to serve thirty.

In the early morning hours of April 20, 1997, four young men and one teenager doused Patax Indian Galdino Jesus dos Santos, asleep on a bench in Brasilia, with gasoline and then set him afire, producing severe burns which caused his death at a local hospital a few hours later. Dos Santos was attending a conference on indigenous rights in celebration of the National Indian Day. He returned to the hostel where he was staying shortly after closing and was forced to sleep outside. Subsequent investigations established that the boys had seen dos Santos asleep, proceeded to a gas station, and then returned to set him afire. Despite this and other evidence, Judge Sandra De Santis Mello reduced charges against the defendants from murder to assault and battery followed by death, accepting their position that they lacked any intent to kill or seriously harm dos Santos. Both the initial incident and the subsequent judicial decision touched off protests and calls for greater governmental efforts to protect the rights of indigenous peoples. At this writing, the defendants still face prosecution.

One encouraging trend during 1997 was the increased cooperation between governmental authorities and civil society in the area of human rights. In the northeastern state of Pernambuco, the state government continued to finance a witness protection program run by an NGO. In 1997, the Ministry of Justice took steps in conjunction with local governmental authorities to transplant this program to five other states. In June, the federal government created the National Secretariat for Human Rights within the Ministry of Justice, which worked closely with NGOs to develop programs jointly and to press for the implementation of measures included in the National Human Rights Plan. In So Paulo, the Ombudsman's Office for Police continued its energetic oversight of police abuse that contributed to significant reductions in police violence against civilians. The Human Rights Commission of the Federal Chamber of Deputies continued to denounce human rights violations throughout Brazil, holding numerous hearings in several locations to expose local abuses and provide fora for local activists and also pressed the Chamber and the Senate to pass sorely needed human rights legislation. In Rio Grande do Sul, the State Legislative Assembly's Human Rights Commission published its third annual "Blue Report," the most thorough catalogue of human rights violations in the state. Across the country, state legislative assemblies either formed human rights commissions or strengthened those that already existed; this same phenomenon occurred at the municipal level as well. Through these measures, government agents strengthened their relationships with their nongovernmental counterparts while assuming responsibility for vital oversight of citizens' rights.

The Brazilian government participated in the Oslo negotiations to draft the landmines treaty. The Ministry of Foreign Affairs expressed its intent to attend the December conference in Ottawa and to sign the landmines treaty at that time. In March, Brazil took an initial step toward recognizing the illegitimacy of the occupation of East Timor by sending its first official delegation to the former Portuguese colony since the 1975 Indonesian invasion. Brazil also received a September visit by Nobel Laureate Jos Ramos Horta. During his previous visit to Brazil in November 1996, Ramos Horta was received by President Cardoso.

The Right to Monitor

The Brazilian government imposed no formal obstacles to human rights monitoring, and Brazil continued to maintain an active civil society including human rights organizations, religious groups, civic associations, and unions. In addition, in 1997 a number of state legislatures and city councils formed human rights commissions which played an increasingly important role, alongside those governmental commissions that already existed, in this watchdog capacity. In May, the So Paulo state legislature established an Ombudsman for the Police, a position previously created by gubernatorial decree. In September, the state legislature in Minas Gerais created an ombudsman's office based on the So Paulo model.

Unfortunately, this trend was not universal. In many parts of Brazil, authorities continued to be antagonistic towards human rights monitors. Human rights activists in the northeastern state of Rio Grande do Norte faced both death threats and law suits for their courageous efforts to rid the police of violent officers. The death threats rarely triggered serious investigations on the part of the appropriate authorities. A list of ten activists who promote investigations of corrupt and violent police in Rio Grande do Norte began to circulate at the end of 1996. The first person on that list, attorney Gilson Nogueira, was murdered on October 20, 1996, and in May 1997, despite significant evidence of police involvement in his killing, federal prosecutors ended their investigation into the matter with no indictments.

Throughout 1997, Rio de Janeiro authorities responded to legitimate criticism of police violence by attacking the sources. This aggressiveness applied to Human Rights Watch, after our report on police brutality, as well as to local and national critics.

The Role of the International Community

European Union

The European Union (E.U.) financed numerous NGOs dedicated to the defense of human rights in Brazil in 1997. Member states of the European Union encouraged Brazil to comply with international human rights norms through regular meetings with federal officials both in Brazil and on official government trips to Europe. At year's end, several governments expressed interest in providing instructors and financing a program directed by the International Committee of the Red Cross (ICRC), to train Brazilian police in methods that respect fundamental human rights. This ICRC training program would build on two courses which it led in 1997 for representatives of the military police forces of each of Brazil's twenty-six states and federal district. National Human Rights Secretary Jos Gregori sought financial support from E.U. governments for police training in human rights during several visits to Europe in 1997. At this writing, however, plans for such financing have not been completed.

United States

In 1997, the U.S. gave relatively little direct assistance to Brazil. For Fiscal Year 1998 the U.S. administration requested U.S. \$225,000 for training through the International Military Education and Training Program (IMET) and U.S. \$1 million in anti-narcotics assistance, as well as U.S.\$600,000 targeted to police forces in Brazil. The U.S. government finalized plans to open an Federal Bureau of Investigation office in Brasilia to combat drug trafficking during fiscal year 1998, although according to the U.S. embassy, no clear timetable for its operation has been established at this writing.

During the year, the U.S. government sponsored numerous visits for human rights activists, judges, and prosecutors to the United States through the administration of justice and United States Information Services programs, as well as visits to Brazil by experts on alternative sentencing and the federalization of human rights crimes, both issues contemplated by the Brazilian National Human Rights Program. The State Department's chapter on Brazil in its Country Reports on Human Rights Practices for 1996 accurately portrayed the varied human rights problems that Brazil faces, as well as the advances and setbacks provoked by governmental policies.

In October, President Bill Clinton visited Brasilia, So Paulo and Rio de Janeiro. In Brasilia, Clinton met with his counterpart Fernando Henrique Cardoso, as well as the presidents of the Chamber of Deputies and the Senate. Unfortunately, President Clinton failed to address the issue of human rights publicly during the trip.

Relevant Human Rights Watch report:

Police Brutality in Urban Brazil, 4/97

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