

# Human Rights Watch

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

<https://www.hrw.org/world-report/2019/country-chapters/brazil>

### Annual reports

Events of 2018

Relatives grieve during the burial of councilwoman Marielle Franco, who was gunned down the night before by two unidentified attackers in Rio de Janeiro, Brazil, Thursday, March 15, 2018. Police said the 38-year-old councilor, who was known for her social work in slums, was killed by perpetrators who knew exactly where she was sitting in a car that had blackout windows.

2018 Leo Correa/AP Photo

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Limiting Beijings Influence Over Accountability and Justice

Convincing Middle Powers to Fight Autocrats Despite High Costs

Time to Re-Energize the Never Again Movement

Fighting the Gender Ideology Myth

Human Judgment and Responsibility in the Age of Technology

Helping Older People Stay Connected, and at Home

Events of 2018

Changing the Terms of Engagement with Silicon Valley

Jair Bolsonaro, a member of Congress who has endorsed torture and other abusive practices, and made openly racist, homophobic and misogynist statements, won a run-off election in October. Political violence and threats against journalists marred the presidential contest.

Violence reached a new record in Brazil, with some 64,000 killings in 2017. Police solve just a small fraction of homicides. Unlawful killings by police feed the wave of violence. Weak state control of many prisons facilitates gang recruitment.

Domestic violence remains widespread; thousands of cases each year are not properly investigated.

Tens of thousands of Venezuelans poured into Brazil in 2018 fleeing repression, hunger, and inadequate medical care. Brazil has kept its borders open, but there have been several serious xenophobic attacks against Venezuelans.

Many rural Brazilians are exposed to pesticides sprayed near their homes, schools, and workplaces, and they fear reprisals if they report poisonings.

A large-scale study by criminologists and journalists estimates that prosecutors file charges in only two out of every ten homicides.

Abuses by police, including extrajudicial executions, contribute to a cycle of violence that undermines public security and endangers the

lives of police officers and civilians.

The federal government has failed to publish a yearly report about killings by and of police officers, as ordered by the Inter-American Court of Human Rights in a 2017 ruling. Data compiled by the nonprofit Brazilian Forum on Public Security from official sources show that 367 on- and off-duty police officers were killed in 2017, the latest available information. Police officers, including off-duty officers, killed 5,144 people in 2017, 20 percent more than in 2016.

While some police killings are in self-defense, research by Human Rights Watch and other organizations shows that some are extrajudicial executions. In So Paulo, the police ombudsman examined hundreds of police killings in 2017, concluding that police used excessive force in three-quarters of them, sometimes against unarmed people.

A 2017 law moved trials of members of the armed forces accused of unlawful killings of civilians from civilian to military courts. The law also moved trials of military police the state police force that patrols the streets in Brazil accused of torture and other crimes to military courts, although homicides by them remain in civilian jurisdiction. This means that the armed forces and military police investigate their own members who are accused of crimes. Under international norms, extrajudicial executions and other grave human rights violations by police and the military must be investigated by civilian authorities and tried in civilian courts.

Less than a month after the law was enacted, eight civilians were killed during a joint civil police and army operation in Rio de Janeiro's metropolitan area. At time of writing, neither armed forces investigators nor federal military prosecutors had interviewed any civilian witnesses.

Then-President Michel Temer in February transferred responsibility for public security and prisons in Rio de Janeiro to the army, until December 2018, with the stated aim of improving citizens' safety. Yet from March to October, homicides went up by 2 percent in Rio State, while police killings increased by 44 percent, compared to the same period in 2017.

Among the Rio homicide victims were councilwoman and human rights defender Marielle Franco and her driver, Anderson Gomes, gunned down in a professional killing in March. At time of writing, police had made no arrests in the case.

In June 2016, more than 726,000 adults were behind bars in facilities built to hold half that number, Ministry of Justice data show. The federal government expected another 115,000 by the end of 2018.

Overcrowding and understaffing make it impossible for prison authorities to maintain control within many prisons, leaving detainees vulnerable to violence and recruitment into gangs.

Fewer than 15 percent of inmates have access to educational or work opportunities, and health services are often deficient. Rio's Public Defenders Office reported that in that state alone, 266 people died in detention in 2017, most of such treatable conditions as diabetes, hypertension, or respiratory ailments.

In February, the Supreme Court ruled that pregnant women, mothers of children under 13, and mothers of children and adults with disabilities who are in pretrial detention for non-violent crimes should instead await trial under house arrest, except for very exceptional cases. Although the Ministry of Justice said the order could apply to 10,693 incarcerated women, judges had released to house arrest only 426 by May 1, the Supreme Court's deadline for compliance. Judges made widespread use of a very exceptional cases exception to retain women in jail.

Many people awaiting trial are routinely held with convicted prisoners, in violation of international standards and Brazilian law.

The National Council of Justice ordered that by May 2016 all detainees should be taken, within 24 hours of arrest, to a hearing to determine if they should be in preventive detention or set free pending trial. But more than two years later, many jurisdictions outside state capitals still do not hold such custody hearings. In the absence of those hearings, detainees often wait months to see a judge for the first time.

At custody hearings, judges can detect police abuse, yet some do not ask detainees about their treatment. In most cases, police officers are present during the hearing, which can be intimidating. Still, about 5 percent of detainees report abuse during the hearings, according to the National Council of Justice. Several studies have shown that their allegations are often not properly investigated.

At time of writing, Congress was examining a bill to make custody hearings mandatory countrywide. But the bill would allow some to be held via videoconference with people in their places of detention, which would make the hearings far less useful as a genuine opportunity to discover allegations of police abuse.

Brazil's juvenile detention facilities housed 24,345 children and young adults in January 2018, official data show.

Police accused 13 staff members of negligent homicide for delay in responding to a fire that killed 10 children in a detention center in Goinia State in May. And in Ceara State, federal prosecutors blamed the actions and omissions of state authorities for the deaths of seven children and young adults in 2017 and 2018.

In a 2018 study of children and young adults detained in So Paulo State by a nonprofit Instituto Sou da Paz with the cooperation of state authorities, 90 percent said military police had mistreated them during arrest, and 25 percent said juvenile detention staff had beaten them. Investigations by the National Mechanism for the Prevention and Combatting of Torture and Human Rights Watch have revealed scores of cases of mistreatment in various states. Abuses are often not properly investigated or punished.

More than 140 reporters covering the elections were harassed, threatened, and in some cases physically attacked, the Brazilian Association of Investigative Journalism (Abraji) found. After winning the election, Bolsonaro said he would withdraw state advertising from news media that are unworthy.

During the campaign, electoral court judges ordered universities to clamp down on what they considered illegal political campaigning, including an event against fascism and publications in defense of democracy. In a unanimous decision, the Supreme Court decided those restrictions violated freedom of expression and struck them down.

The ruling comes as Bolsonaro and his allies push a bill that would prohibit teachers from promoting their own opinions in the classroom or using the terms gender or sexual orientation, and would order that sex and religious education be framed around family values.

In March, in the case of a man sentenced to six months in prison for insulting a soldier, three Supreme Court justices upheld a legal provision called *desacato* that punishes the disrespecting of public officials with up to two years in prison. A fourth justice maintained that punishing disrespect violates freedom of expression. The Brazilian Bar Association has petitioned the Supreme Court to rule the *desacato* provision unconstitutional. That case was pending at time of writing.

Military police have abused *desacato* to quell criticism, for example, detaining people participating in protests, saying they disrespected officers.

Military police officers face broad restrictions on their own freedom of speech. State disciplinary codes and the military criminal code subject officers to expulsion from the force and prison sentences for offenses, such as criticizing a superior officer or a government decision.

At the end of 2017, more than 1.2 million cases of domestic violence were pending before the courts. Implementation of Brazil's anti-domestic violence legislation, the 2006 Maria da Penha law, is lagging. Official data show that 23 shelters that housed women and children in desperate need closed in 2017 due to budget cuts. Only 74 shelters remain, in a country of more than 200 million people. Each year, police do not properly investigate thousands of domestic violence cases, with the result that they are never prosecuted.

Unchecked domestic abuse typically escalates and may lead to death. In 2017, the last year for which data is available, 4,539 women were killed in Brazil, the Brazilian Forum on Public Security reports. Police registered 1,133 as femicides, defined under Brazilian law as the killing of a woman on account of being persons of the female sex. The real number is likely higher, as police do not record as femicides killings for which the motives are initially unclear.

Abortion is legal in Brazil only in cases of rape, when necessary to save a woman's life, or when the fetus suffers from anencephaly, a fatal congenital brain disorder. Women and girls who have clandestine abortions not only risk injury and death but face up to three years in prison, while people convicted of performing unlawful abortions face up to four years. In August, the Supreme Court held a two-day hearing on a pending petition to decriminalize abortion in the first 12 weeks of pregnancy.

An outbreak of the Zika virus in 2015-2016 caused particular harm to women and girls. When a pregnant woman is infected, Zika can cause complications in fetal development, including of the brain. Ministry of Health data from June showed that two-thirds of children born with Zika syndrome had not received the specialized early stimulation that is crucial for their development.

Thousands of people with disabilities, including children and infants, are needlessly confined in institutions, where they may face neglect and abuse, sometimes for life. At the request of a relative or an institution's director, courts can strip people with disabilities of their legal capacity—the right to make decisions for themselves, with support if they ask for it. A person stripped of legal capacity can only leave an institution with the consent of their guardian, which constitutes unlawful deprivation of liberty according to the Convention on the Rights of People with Disabilities, which Brazil has ratified.

In June, the Senate approved a bill that recognizes a right to legal capacity for some adults with disabilities. The bill does not establish universal legal capacity or a system that allows all people with disabilities access to supported decision-making.

Thousands of Venezuelans have crossed the border into Brazil fleeing hunger, lack of basic health care, and persecution. UNHCR data shows that from January 2014 to April 2018, 25,311 Venezuelans requested a residency permit in Brazil. From January 2014 to July 2018, 57,575 requested asylum. Brazil granted asylum to 14 Venezuelans in 2016, and denied it to 28. In October, the head of Brazil's refugee agency (CONARE) told Human Rights Watch the agency had not made any decisions about asylum requests from Venezuelans in the last years.

By October, the federal government and the UNHCR had opened 13 shelters in Roraima State that housed more than 5,500 Venezuelans. The government has been slow to integrate them into society; most children in shelters do not go to school, and many Venezuelans still lack legal papers. By November, more than 3,100 Venezuelans had benefited from a federal program that relocates them to other states.

In March, a mob expelled Venezuelans from an improvised shelter in Roraima, the Brazilian state that borders Venezuela, and burned their belongings; in August, after another attack, a mob pushed about 1,200 Venezuelans back across the border while police looked on, making no arrests; and in September, several Brazilians lynched a Venezuelan whom they accused of a killing.

In September 2017, a federal judge overruled a 1999 decision by the Federal Council of Psychology that banned conversion therapy, which attempts to change an individual's sexual orientation or gender identity. The council's appeals to a federal court and to the Supreme Court were pending at time of writing.

In March, the Supreme Court ruled that the government can no longer require transgender people who want their name and gender marker on identification documents changed to undergo medical procedures or subject their decisions to judicial review.

Brazilian media reported about dozens of cases of threats and attacks against lesbian, gay, bisexual, and transgender people during the presidential campaign, many of them allegedly by Bolsonaro supporters.

From January to October, the Ministry of Labor identified 1,246 cases of workers subjected to abusive conditions that under Brazilian law rise to the level of slave-like, such as forced labor or degrading working conditions. In response to a judicial order, the Ministry of Labor in April released a list of 166 employers on whom it had imposed penalties since 2010 for employing people in slave-like

conditions.

Many rural residents are exposed to pesticides sprayed near their homes, schools, and workplaces. They fear reprisals from large landowners if they denounce poisonings.

The government does not adequately monitor pesticide exposure and pesticide residues in drinking water and food. At time of writing, Congress was considering a bill that would weaken the regulatory framework for pesticides, including by reducing the role of the Health and Environment Ministries in authorizing new pesticides.

In 2017, 71 people involved in land conflicts died violently, the highest number since 2003, the Pastoral Land Commission of the Catholic Church reported.

In March, then-President Temer issued three decrees implementing a 2017 federal law that would grant titles to people occupying land illegally. Environmental and landless peasant organizations argue that the law would benefit large landowners and illegal loggers. The attorney general has warned that it could increase the number of killings as a result of land conflicts. Three pending petitions ask the Supreme Court to declare the law unconstitutional.

The perpetrators of human rights abuses during military rule from 1964 to 1985 are shielded from justice by a 1979 amnesty law that the Supreme Court upheld in 2010, a decision that the Inter-American Court of Human Rights ruled violated Brazil's obligations under international law.

Since 2012, federal prosecutors have charged more than 40 former military officers and other agents of the dictatorship with killings, kidnappings, and other serious human rights abuses. Lower courts dismissed most of the cases, while the Supreme Court halted two, pending re-examination of the amnesty law.

In July, the Inter-American Court of Human Rights condemned Brazil's handling of the case of journalist Vladimir Herzog, whom state agents tortured and killed in 1975. The court ruled that killing should be considered a crime against humanity and ordered Brazilian institutions to recognize that type of crime is not subject to statutes of limitation. In compliance with the ruling, federal prosecutors re-opened the Herzog investigation.

In October, an appeals court reversed a lower court's decision to order a former army colonel to pay about US\$25,000 to the family of a man who was tortured and killed by the units under the colonel's command during the dictatorship. The court found the statute of limitation had expired.

The Inter-American Commission on Human Rights (IACHR) and the United Nations Office of the High Commissioner for Human Rights (OHCHR) expressed deep concern over then-President Temer's decision to put public security in the hands of the armed forces in Rio de Janeiro. The UN special rapporteur on extrajudicial, summary, or arbitrary executions criticized the 2017 law that shields members of the armed forces from trial in civilian courts for unlawful killings of civilians. In November, after its first visit to Brazil since 1995, the IACHR found systematic violations of human rights by state agents, such as extrajudicial killings by police and deplorable prison conditions.

The Brazilian government condemned violations of human rights in Venezuela, urged the administration of President Nicolás Maduro to allow humanitarian aid to enter the country, and called for the re-establishment of democracy. Brazil did not co-sponsor a resolution condemning abuses in Venezuela that the so-called Lima Group countries introduced to the UN Human Rights Council but it voted in favor.

A Saudi-led coalition has used Brazilian-made cluster munitions in Yemen on at least four occasions in the past few years. Cluster munitions are prohibited by a 2008 treaty joined by 104 countries, but not by Brazil.

Brazil is a strong supporter of a prohibition on fully autonomous weapons. Together with Austria and Chile, Brazil called, in August, for negotiating a treaty to retain meaningful human control over weapons systems and the use of force.

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

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