

# Human Rights Watch

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

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Further Steps Needed to Protect Detainees

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(So Paulo, July 28, 2014) Torture remains a serious problem in [Brazil](#) despite recent measures to curb the practice, Human Rights Watch said today in a [letter](#) to the Brazilian Congress. Congress should approve a bill that would safeguard against ill-treatment of detainees by requiring officials to physically present them before a judge for a custody hearing within 24 hours of arrest.

Human Rights Watch found compelling evidence in 64 cases of alleged abuse since 2010 that security forces or prison authorities engaged in cruel, inhuman, or degrading treatment against people in their custody. In 40 of these cases, the evidence supported the conclusion that the abuse rose to the level of torture. While these abuses often occur in the first 24 hours in police custody, detainees typically must wait for three months or more before they see a judge to whom they can directly report the abuse.

Brazil has taken important steps to confront the problem of torture, but much more is needed, said [Maria Laura Canineu](#), Brazil director at Human Rights Watch. So long as detainees wait months to see a judge, they're far less likely to report the abuses they've suffered and by then, the physical evidence may well have disappeared.

Twenty-six of the documented cases occurred in So Paulo, which has the highest prison population in the country. State authorities should take measures to address the problem, including creating a state entity to monitor cases and patterns of abuse throughout the state, Human Rights Watch said in a separate [letter](#) to So Paulo Governor Geraldo Alckmin.

Senate draft law 554 of 2011, which is before the Senate Commission on the Constitution, Citizenship and Justice, would require that people arrested in flagrante that is, caught in the act be brought before a judge within 24 hours for a custody hearing. This would ensure that victims of torture would be able to report abuses at the outset of the legal process, when corroborating evidence is still available, and help to prevent confessions obtained through torture from being used in court, Human Rights Watch said.

In August 2013, President Dilma Rousseff signed into law a bill creating a National Mechanism to Prevent and Combat Torture charged with visiting civilian and military locations where people are deprived of their liberty. In April 2014, the National Council of Justice issued a recommendation to courts setting out basic steps that judges should take to investigate credible allegations of torture and ill-treatment.

In the Human Rights Watch investigation into cases of alleged torture and cruel, inhuman, or degrading treatment in So Paulo, Rio de Janeiro, Bahia, Espírito Santo, and Paran, the evidence implicated more than 150 police officers and prison guards in these violations. The abuses took place in various settings, including in the streets and police vehicles, inside private homes during arrests, and at police stations and detention centers, and ranged from severe beatings and threats of physical and sexual violence, to electric shocks, asphyxiation with plastic bags, and rape.

In one case in So Paulo state, military police officers arrested A.B. in flagrante for drug trafficking in May 2010. The officers reported that they searched him during a routine patrol and found 80 packets of marijuana in his pocket, and that he tripped on the way to the police station, injuring his eyes and neck. However, when he finally appeared before a judge three months later, he testified that the officers had beaten him to force him to reveal the name of a local drug trafficker. Two neighbors also testified that they saw the police punching A.B. for 30 minutes in the stairwell of their apartment building during his arrest. He was ultimately acquitted due to gross inconsistencies in the police testimony, but an investigation into his beating was closed in August 2013 for lack of sufficient evidence.

In Rio de Janeiro, Human Rights Watch obtained evidence suggesting that the police officers involved in the disappearance of construction worker Amarildo Dias de Souza in July 2013 tortured or severely mistreated several other residents of the Rocinha neighborhood, where he lived. In one instance, the day before Amarildo's arrest, military police officers took 16-year-old X.Z. to the local Command and Control Center and threatened him with sexual assault, shoved his head into a toilet full of feces, and forced him to eat

liquid candle wax to get him to reveal the names of drug traffickers, his parents told Human Rights Watch and state prosecutors.

Most arrests in Brazil involve individuals who are allegedly caught in the act. These detainees usually must wait months before they have a chance to see a judge, as the federal criminal procedure code provides that only the police files of the arrests, not the detainees themselves, need to be presented to a judge within 24 hours. The only opportunity for detainees to report abusive treatment to a judge is most likely at their trial months later, at which point it is much more difficult to prove.

Human Rights Watch examined official data that suggests impunity in cases of serious abuses by police and prison guards is the norm. For example, as of October 2013, the So Paulo state police ombudsmans office had received 122 complaints of incidents of torture, bodily injury, and ill-treatment that occurred between January 2011 and July 2013, none of which had resulted in sanctions against the police officers involved. Similarly, military justice officials reviewed at least 4,000 investigations into alleged incidents of bodily injury by police officers between January 2011 and July 2013. However, only 53 police officers were convicted for bodily injury committed during this period.

In So Paulo, Human Rights Watch also found evidence that forensic medical exams of detainees who reported abuse had been perfunctory, late, or conducted in the presence of police officers, making it less likely the person being examined would speak openly. Almost all of these exams failed to include critical information, most notably the detainees fingerprints and photographs of their injuries.

State authorities should issue a clear policy requiring prompt and impartial forensic medical exams whenever there are reasonable grounds to believe that a detainee was subjected to torture or ill-treatment. The examinations should adhere to the National Council of Justices recent recommendation of compliance with international guidelines on torture investigations, particularly the requirements that the examinations be conducted in private and outside the presence of security agents, and that forensic medical experts must take detainees fingerprints and color photographs of their injuries.

Unlike many of its neighbors, Brazil does not require detainees to be promptly brought before a judge upon arrest, Canineu said. By signing bill 554 of 2011 into law, lawmakers would be taking an important step toward giving torture victims a chance to speak out and ensuring that security officials who break the law are brought to justice.

#### **Selected cases of torture or cruel, inhuman, or degrading treatment documented by Human Rights Watch in Brazil:**

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