

Human Rights Watch

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

<https://www.hrw.org/world-report/2017/country-chapters/brazil>

Annual reports

Events of 2016

Brazil's President Dilma Rousseff (right) and Vice President Michel Temer during a ceremony at the presidential Planalto Palace in Brasilia, November 5, 2014.

2014 Ueslei Marcelino/Reuters

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Global Attacks on Human Rights Values

As Rights Move Online, Human Rights Standards Move with Them

Secondary Education for Children in Emergencies

How New Global Counterterrorism Measures Jeopardize Rights

Strategies to Confront the Shameless

Brazil suffered both economic and political crises in 2016. In August, its Congress impeached President Dilma Rousseff; Vice President Michel Temer replaced her.

Chronic human rights problems plague Brazil's criminal justice system, including unlawful police killings, prison overcrowding, and torture and ill-treatment of detainees. Some recent reform efforts aim to address these problems, but other proposed moves would exacerbate them. In 2016, the judiciary broadened a program to ensure that detainees are promptly brought before judges after their arrest, as required by international law. Congress approved a counterterrorism bill with overbroad and vague language that could be used to undermine freedom of association.

Widespread violence, often perpetrated by criminal gangs, plagues many Brazilian cities. Abuses by police, including extrajudicial executions, contribute to a cycle of violence in high-crime neighborhoods, undermining public security and endangering the lives of the police officers who patrol them. In 2015, 393 police officers were killed in Brazil, according to the latest data available at time of writing.

Police officers, including off-duty officers, killed 3,345 people in 2015, according to official data compiled by the nongovernmental organization (NGO) Brazilian Forum on Public Security. This represents a 6 percent increase over 2014, and a 52 percent increase over 2013. While some police killings result from legitimate use of force, others are extrajudicial executions, as documented by Human Rights Watch and other groups, and as acknowledged by Brazilian criminal justice officials.

After doubling in 2014, killings by on-duty police officers in São Paulo, the state with the largest population in Brazil, decreased by 17 percent in 2015 and fell by another 19 percent from January to September of 2016. But killings by on-duty police officers in Rio de Janeiro, the state with the highest rate of police killings, increased 11 percent in 2015 and an additional 23 percent in the first 9 months of 2016.

In September, an appeals court voided the convictions of 74 police officers for their participation in the 1992 killing of 111 detainees in the Carandiru prison in So Paulo. One of the members of the three-judge panel claimed there was no massacre and that all killings were in self-defense, despite overwhelming evidence that police executed the detainees.

Many Brazilian prisons and jails are severely overcrowded and violent. The number of adults behind bars jumped 85 percent from 2004 to 2014 and exceeds 622,000 people, 67 percent more than the prisons were built to hold, according to latest Ministry of Justice figures.

A key contributor to the dramatic increase in Brazils prison population has been a 2006 drug law that increased sentences for traffickers. While the law also replaced prison sentences for drug users with penalties such as community service, a measure that might have reduced the prison population, the law was worded vaguely, leaving open the possibility of users being prosecuted as traffickers. In 2005, 9 percent of those in prison had been detained on drug charges in 2014 it was 28 percent, and among women, 64 percent, according to the latest data available.

In 2014, judges started seeing detainees promptly after arrest, as required by international law. Such custody hearings currently carried out in state capitals and some other jurisdictions help judges determine who should be in preventive detention and who should be set free pending trial. In the absence of custody hearings, detainees often wait many months to see a judge for the first time. In Brazil, 40 percent of people in prison are pretrial detainees. At time of writing, Brazils Congress was examining a bill to make such hearings mandatory throughout the country.

Custody hearings have the potential to be a powerful weapon against police abuse of detainees because they allow judges to detect and hear about mistreatment soon after arrest. However, an analysis by the Institute for the Defense of the Right of Defense (IDDD), an NGO, of more than 700 custody hearings carried out in So Paulo in 2015 showed that judges asked detainees about their treatment in custody in only about 40 percent of cases, and took no action in a third of the 141 cases of alleged abuse they heard. Judges sent the rest to the police internal affairs divisions. The IDDD had no information about the results of any inquiries into the cases by those divisions by the time it published its report in May 2016.

A team from the governments National Mechanism for the Prevention and Combatting of Torture visited six states between April 2015 and March 2016, documenting cases of torture and cruel, inhuman, or degrading treatment in most, if not all of the 17 jails and prisons it inspected. In Sorocaba jail in So Paulo state, they found 50 detainees in cells designed to hold 9 people.

Brazils Senate is examining a Constitutional amendment a version of which was approved by the Chamber of Deputies in 2015 that would allow 16 and 17-year-olds accused of serious crimes to be tried and punished as adults. If enacted, the law would violate international norms enshrined in human rights treaties that Brazil has ratified, which state that people under 18 should not be prosecuted as adults.

The Chamber of Deputies is considering a separate bill, which the Senate has already approved, to raise the maximum time of internment for children from 3 to 10 years. If enacted, the bill would aggravate overcrowding in the juvenile detention system, which was built to hold about 18,000 juveniles but held close to 22,000 in 2014, according to the latest data published by the National Council of the Prosecutors Office.

The National Mechanism for the Prevention and Combatting of Torture found that the physical infrastructure of the nine juvenile centers it visited in three states between April 2015 and March 2016 did not comply with the Federal Governments regulations: instead of promoting rehabilitation and education, the centers served as places of isolation and punishment. In most units, children spent more than 20 hours a day and in one unit 24 hours a day locked in their rooms. Conditions were especially dire in the state of Ceara, where the number of children held as of January 2016 was more than double capacity in some facilities, according to CEDECA Ceara, an NGO. Some children reported that juvenile detention officers beat them and that they were kept in units infested with rats and cockroaches, and which lacked adequate sanitation, ventilation, mattresses, and basic hygiene products.

In February, the Rousseff administration won Congressional approval for a counterterrorism bill that contains vague language that endangers such basic human rights as freedom of association. The law includes an overbroad definition of terrorism and of actions in preparation of a terrorist act that could be used against peaceful advocacy groups.

Brazil was at the vanguard of digital rights in 2014 with the enactment of a Digital Bill of Rights, intended to protect privacy and free expression rights online. It also co-led an initiative at the United Nation Human Rights Council in 2015 to create a new UN special rapporteur on the right to privacy. One of Dilma Rousseffs last acts as president was signing a decree in May 2016 that implemented the law.

But other developments risk setting back the right to privacy in Brazil. From February 2015 to July 2016, four judges ordered the temporary blocking of WhatsApp, the Facebook-owned messaging service, across the country, and in March 2016 federal police arrested a Facebook executive because the company refused to turn over user information to authorities.

Between March and June 2016, judicial officials filed more than 40 lawsuits against five employees of the newspaper Gazeta do Povo (Peoples Gazette) in the state of Paran for a series of stories, based on information publicly available from government websites, revealing that judges and prosecutors were receiving more in wages and benefits than is allowed by the Constitution. In July, Brazils Supreme Court suspended the lawsuits pending its review of the cases.

In August, a judge authorized police to wiretap a reporters phone after he refused to reveal his sources for a story that published a list of Brazilians whom authorities suspect have Swiss bank accounts.

According to Artigo 19, a Brazilian NGO, five journalists were killed in Brazil in 2016 through October, including at least two who were attacked or threatened prior to their deaths. Since 2011, at least 21 journalists have died violently in Brazil in direct relation to their work, according to the Committee to Protect Journalists, an international press freedom group.

Abortion is legal in Brazil only in cases of rape, when necessary to save a womans life, or when the fetus suffers from anencephaly, a fatal congenital brain disorder. In 2016, conservative members of Congress promoted several bills that would eliminate those exceptions

and that would make it a crime even to provide information to women about abortion.

Women and girls who abort pregnancies illegally risk not only injury and death, but face sentences of up to three years in prison, while people who perform abortions face up to four years, if convicted.

Brazilian women and girls of child-bearing age faced new health challenges from an outbreak of the Zika virus starting in 2015. The virus can cause a series of congenital conditions during fetal development, including microcephaly, or the underdevelopment of the brain. In August, the National Association of Public Defenders, with support from the NGO Anis, filed a petition before the Supreme Court to allow women infected with Zika to have abortions.

In January, a disability rights law came into effect, requiring public agencies to give priority to people with disabilities when providing services related to health, education, work, housing, culture, and sport. The law also instructs cities to adapt sidewalks and public spaces for people with disabilities. In June, Brazil's Supreme Court upheld a provision in that law that requires private schools to incorporate children with disabilities in regular classrooms at no extra cost to their families.

However, a bill under discussion in Congress could set back Brazil's efforts to meet its obligation under the Convention on the Rights of People with Disabilities to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. The bill would revert to a system under which some people with disabilities can be placed in guardianship arrangements that are not consistent with Brazil's human rights obligations.

Brazil's Supreme Court approved same-sex marriage in 2011 and it upheld the right of same-sex couples to adopt children in 2015. But the Chamber of Deputies was, at time of writing, debating a bill that would define a family as a union between a man and a woman.

The national Human Rights Ombudsmans Office received 1,983 complaints of violence, discrimination, and other abuses experienced by lesbian, gay, bisexual, and transgender (LGBT) persons in 2015. In the first half of 2016 the ombudsman received 879 such complaints.

Since 1995, the Ministry of Labor has documented almost 50,000 cases of workers being subjected to abusive working conditions that under Brazilian law rise to the level of slave-like, such as forced labor and degrading working conditions. More than 1,000 such cases were documented in 2015. From April 2014 to April 2016, the Ministry of Labor imposed penalties on 349 companies for employing 4,119 people in slave-like conditions.

Rural activists and indigenous leaders involved in conflicts over land continue to face threats and violence in Brazil. According to the Pastoral Land Commission of the Catholic Church, 39 people involved in land conflicts died violently from January to August 2016.

In 2015, five indigenous people died as a result of land conflicts, according to the Indigenous Missionary Council of the Catholic Church (Cimi). Of particular concern, the council said, is the situation of the Guaraní-Kaiowá people, who continue to suffer violent attacks by militias linked to landowners as they struggle to regain their rights over ancestral lands.

After a visit to Brazil in March 2016, the UN special rapporteur on the rights of indigenous peoples said that in the last eight years there was a disturbing lack of progress in areas of key concern to indigenous peoples, such as the demarcation of their territories. She urged Brazil's government to address violence and discrimination against indigenous people.

The perpetrators of human rights abuses during military rule from 1964 to 1985 continue to be shielded from justice by a 1979 amnesty law that was upheld by the Supreme Court in 2010, a decision that the Inter-American Court of Human Rights quickly ruled was a violation of Brazil's obligations under international law. In 2014, the National Truth Commission identified 377 such perpetrators, but owing to the amnesty law, their crimes remain unpunished.

Federal courts did allow the prosecution of at least two former military officers for killings during military rule, but the Supreme Court temporarily halted those prosecutions in 2014 and 2015, pending its re-examination of the validity of the amnesty law.

In a May report to the UN Human Rights Council, the UN working group on business and human rights found that mining company Samarco had failed to alert residents after the November 2015 rupture of a tailings dam, which caused one of the worst environmental disasters in Brazilian history and the death of 19 people. Prior warning might have prevented these deaths, the working group said. In November, four UN rapporteurs said in a joint statement that the measures taken so far by the government and the company are insufficient to deal with the massive environmental and human impact of the disaster.

Brazil was elected to the Human Rights Council for the 2017-2019 term. In June, the council adopted a resolution, presented by a core group of Latin American countries, including Brazil, that established the position of UN independent expert on protection against violence and discrimination based on sexual orientation and gender identity.

The total number of people with refugee status in Brazil more than doubled from 2011, when President Rousseff took office, to more than 8,800 in April 2016, according to the Ministry of Justice. About a quarter of those with refugee status are Syrian. The Temer administration has said that in 2017 it intends to receive at least 3,000 Syrians from Jordan, Turkey, and Lebanon, as well as an undetermined number of Central American refugees who are in Mexico.

The new government made a clear shift in its position toward Venezuela. In August, Foreign Minister Jos Serra called the Venezuelan government authoritarian and repressive and highlighted the plight of political prisoners there. The Rousseff administration had avoided criticizing Venezuela's persecution of political opponents and crackdown on protesters.

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

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