

Brazil

Chronic problems plague Brazil's criminal justice system, including unlawful police killings and mistreatment of detainees. In Rio de Janeiro, killings by police are approaching record levels. In January 2017, more than 120 inmates were killed in gang-related violence.

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

Thousands of Venezuelans poured into Brazil, fleeing repression and seeking food and medication. In response, Brazil facilitated residency permits for them, while it called for the re-establishment of democracy in Venezuela.

Public Security and Police Conduct

Widespread violence, often perpetrated by criminal gangs, plagues many Brazilian cities. Abuses by police, including extrajudicial executions, contribute to a cycle of violence, undermining public security and endangering the lives of police officers. In 2016, 437 police officers were killed in Brazil, the vast majority of them while off-duty, according to official data compiled by the nonprofit Brazilian Forum on Public Security.

Police officers, including off-duty officers, killed 4,224 people in 2016, about 26 percent more than in 2015, according to the Brazilian Forum on Public Security.

After a two-year decline in killings by on-duty police officers in the state of São Paulo, the 494 killings from January to September represented a 19 percent rise from the same period in 2016. On-duty police officers in Rio de Janeiro killed 712 people from January to August, a 30 percent rise from the same period in 2016.

While some police killings result from legitimate use of force, others do not. Human Rights Watch has documented scores of cases in the past decade where there was credible evidence of an extrajudicial execution or a cover-up that were not properly investigated or prosecuted.

In Pará, police killed 10 farmers in May. Officers said they were responding to an attack, but witnesses and forensic data provide credible evidence that they executed the victims.

In July, the government deployed thousands of armed forces personnel in Rio de Janeiro to assist with policing. In October, Congress approved a bill, promoted by the army, that will shield soldiers accused of unlawful killings of civilians from prosecution in civilian courts, moving such trials to military courts. Under international norms, extrajudicial executions and other grave human rights violations should be tried in civilian courts.

Prison Conditions, Torture, and Ill-Treatment of Detainees

In January, more than 650,000 adults were behind bars in Brazil, according to the National Council of Justice. The latest official data about overcrowding, from 2014, showed facilities housing 67 percent more inmates than they were designed to hold.

Overcrowding and understaffing make it impossible for prison authorities to maintain control within many prisons, leaving detainees vulnerable to violence. In January, more than 120 inmates died in three states, allegedly as a result of gang violence. Another 22 inmates had already been killed in October 2016.

Health and legal services are deficient in many prisons, and only a small percentage of inmates have access to educational and work opportunities. Pretrial detainees are routinely held with convicted prisoners, in violation of international standards and Brazilian law

Judges in only about 40 percent of jurisdictions see detainees promptly after arrest, as required by international law, according to the nonprofit Institute for the Defense of the Right to Defense. Such “custody hearings” 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; 34 percent of people in Brazilian prisons were awaiting trial in January. At time of writing, Congress was examining a bill to make custody hearings mandatory countrywide.

Such hearings have the potential to be a powerful weapon against police abuse of detainees because they allow judges to detect mistreatment soon after arrest. In São Paulo, however, a 2017 report by the nonprofit Conectas found that judges, prosecutors, and public defenders failed to ensure the proper investigation of allegations of mistreatment in hundreds of custody hearings.

Children's Rights

Brazil's juvenile detention facilities were built to house about 19,400 children and young adults but held at least 24,000 in October 2016. These figures do not include the capacity of facilities and the number of detainees in six states, about which the federal government had no data.

In June, nine children were killed by other children in severely overcrowded detention facilities in Paraíba and Pernambuco. The National Council of Human Rights reported 40 children killed in confinement in Pernambuco from 2012 to 2016. The report did not make clear the assailants.

Investigations by the National Mechanism for the Prevention and Combatting of Torture and Human Rights Watch found scores of cases of mistreatment of children by staff and police in various states. Abuses are often not properly investigated or punished. An exception was the conviction in August of 12 staff members for torturing 85 children in São Paulo. Despite substantial forensic and video evidence, the case did not come to trial until 12 years after the abuse.

Instead of promoting rehabilitation and education, the physical infrastructure of juvenile detention facilities fosters isolation and punishment. Some children and young adults in the state of Ceará have no access to educational activities and are locked in their rooms most, if not all, day, as documented by Human Rights Watch.

At time of writing, Brazil's Congress was examining a bill to raise the maximum time of internment for children from 3 to 10 years—which would aggravate overcrowding—and a constitutional amendment to allow 16 and 17 year olds accused of serious crimes to be tried and punished as adults, in violation of international norms.

Freedom of Expression

In December 2016, a panel of the Superior Justice Court ruled that a legal provision that punishes the “disrespecting” of public officials (*desacato*) with up to two years in prison violated freedom of expression and should be voided. But in May, the full criminal section of the court reversed that decision.

In Rio de Janeiro, where the armed forces have been deployed repeatedly to patrol the streets, scores of civilians have been tried in military courts for allegedly disrespecting soldiers under a *desacato* provision in the Military Criminal Code. Military Police forces have abused the provision to quell criticism, including in cases in which they detained artists during performances or people who had posted critical comments online.

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. Some commanders use those norms to impose disproportionate punishments on officers who advocate for police reform or voice complaints.

Women's and Girls' Rights

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 abort pregnancies illegally not only risk injury and death but face sentences of up to three years in prison, while people convicted of performing unlawful abortions face up to four years. An estimated 416,000 Brazilian women had abortions in 2015, according to a survey. The Ministry of Health told Human Rights Watch that doctors administered only 1,667 legal abortions that year.

The Supreme Court is examining two petitions to decriminalize abortion. In April, Human Rights Watch submitted expert briefs in support of both cases. In November, a congressional committee approved a bill that would prohibit abortion under any circumstances.

An outbreak of the Zika virus in 2015 had particularly harmful impacts on women and girls. When a pregnant woman is infected, Zika can cause problems with fetal development, including microcephaly—underdevelopment of the brain. Inadequate investment in water and sanitation infrastructure, as well as limited reproductive health information and services, worsened the Zika outbreak, and leave Brazilians vulnerable to future outbreaks. Children with Zika syndrome need additional state support.

Implementation of Brazil’s anti-domestic violence legislation, the 2006 “Maria da Penha” law, is lagging. Specialized women’s police stations have insufficient staff, are mostly closed during evenings and on weekends, and remain concentrated in major cities. Thousands of cases each year are never properly investigated, according to available data.

Unchecked domestic abuse typically escalates and may lead to death. In 2016, 4,657 women were killed in Brazil, according to official data compiled by the Brazilian Forum on Public Security. A 2013 study estimated that the attacker was a partner, former partner, or relative in half of all cases of killings of women.

Disability Rights

In January 2016, a disability rights law came into effect, requiring public agencies to prioritize people with disabilities when providing services related to health, education, work, housing, culture, and sport.

In March 2016, a new civil procedure code revoked recently enacted provisions that guaranteed legal capacity for all persons with disabilities and mandated a move to systems of supported decision-making. Another bill under discussion would reinstate full legal guardianship in the country, a major setback for disability rights as it would impede certain people with disabilities from making their own decisions about their lives, such as where to live, with whom, whether to marry or have children, and whether to vote.

Migrants, Refugees, and Asylum Seekers

In May, Brazil approved a new migration law that grants non-citizen immigrants equal access to public services, including education and health, and the right to join unions. The law allows the government to provide humanitarian visas to people from countries suffering “serious or imminent institutional instability, armed conflict, great calamity, an environmental disaster, or serious violation of human rights or international humanitarian law.”

A humanitarian crisis in Venezuela has launched thousands of people across the border to Brazil. From January to June, 7,600 Venezuelans requested asylum in Brazil, compared with 55 in all of 2013, according to government data. Brazil granted asylum to 14 Venezuelans in 2016, and denied it to 28, with the rest of cases still pending. From January to September 2017, Brazil did not make any decision on asylum applications from Venezuelans.

In March, Brazil approved a resolution allowing Venezuelans to apply for a two-year residency permit. In August, a federal judge exempted poor Venezuelans from paying the US\$100 application fee, which had prevented many from requesting a permit.

Sexual Orientation and Gender Identity

The national Human Rights Ombudsman’s Office received 725 complaints of violence, discrimination, and other abuses against lesbian, gay, bisexual, and transgender (LGBT) people in the first half of 2017.

In February, men shouting homophobic insults beat, shot, and stoned to death Dandara dos Santos, a 42-year-old transgender person in the state of Ceará. A witness said he called the police twice during the attack. Police have not explained their delayed response. Police detained several suspects only after a video of the beating—apparently recorded by one of the aggressors—appeared on social media.

In September, a federal judge overruled a 1999 decision by the Federal Council of Psychology that banned conversion therapy—the attempt to change an individual’s sexual orientation. The council appealed.

Labor Rights

In 2016, the Ministry of Labor identified 885 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. While the number is lower than in previous years, the ministry conducted 25 percent fewer inspections. From December 2014 to December 2016, it imposed penalties on 250 companies for employing people in “slave-like” conditions.

In October 2017, the ministry issued a resolution that redefined “slave-like” conditions to apply only in circumstances when workers’ freedom of movement is restricted. It also required that police participate in inspections and that the minister approve the publication of the names of companies penalized. A week later, a Supreme Court justice ruled the resolution was unconstitutional and suspended it until the full court decides on the issue.

Environment and Land-Related Conflicts

Violence against rural activists and indigenous leaders involved in conflicts over land continued to climb. In 2016, 61 people involved in land conflicts died violently, the highest yearly number since 2003, and from January to October 2017, 64 were killed, according to the Pastoral Land Commission of the Catholic Church. Among those were nine rural workers killed in April in the state of Mato Grosso. Prosecutors assert a logger ordered the crimes to expel them from the land.

In 2016, 12 indigenous people were killed as a result of land conflicts, according to the Pastoral Land Commission. Prosecutors were investigating reports that illegal miners killed at least 10 members of a remote Amazon tribe in August.

The government almost halved the budget for Funai, the agency charged with protecting indigenous people, and maintained that indigenous people who were not occupying their lands in 1988, when the constitution was promulgated, should lose their right to those lands, a position opposed by the Federal Prosecutor’s Office.

A federal law approved in July would grant titles to people occupying land illegally in the Amazon forest. Environmental and landless peasant organizations opposed it, arguing it

would benefit large landowners and illegal loggers. The Federal Prosecutor's Office concurred, warning that the law could also increase the number of killings as a result of land conflicts, and petitioned the Supreme Court to declare it unconstitutional.

In May, a parliamentary inquiry commission dominated by the agribusiness caucus urged federal authorities to prosecute 67 indigenous leaders, anthropologists, public servants, and members of NGOs defending indigenous rights for alleged fraud, land invasion, and belonging to a criminal organization. At time of writing, federal authorities had not taken up that proposal.

In June, four rapporteurs from the United Nations and the Inter-American Commission on Human Rights (IACHR) stated that "indigenous and environmental rights are under attack" in Brazil. The government called the rapporteurs' allegations "groundless."

Confronting Military-Era Abuses

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 the Supreme Court upheld in 2010, a decision that the Inter-American Court of Human Rights quickly 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 its re-examination of the validity of the amnesty law.

In May, the Inter-American Court of Human Rights held a hearing in the case of journalist Vladimir Herzog, who was tortured and killed by state agents in 1975. The court will have to address the amnesty law again when it decides the Herzog case.

Key International Actors

In May, as part of the Universal Periodic Review (UPR), UN member states made 246 recommendations to improve Brazil's human rights record. They highlighted prison and

police abuses, and the violation of rights of indigenous people and women, among other issues.

Foreign Policy

The Brazilian government condemned violations of human rights in Venezuela and called for the reestablishment of democracy. In August, Brazil and the other founding members of the South American trading bloc Mercosur suspended Venezuela from the group for “breaking democratic order.”

A Saudi-led coalition used Brazilian-made cluster munitions in Yemen on at least four occasions, the latest in February 2017, killing two civilians and wounding at least 12. Cluster munitions are prohibited by a 2008 treaty joined by 102 countries, but not by Brazil.