



2008 Human Rights Report: Brazil

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
2008 Country Reports on Human Rights Practices
February 25, 2009

Brazil is a constitutional federal republic with a population of approximately 190 million. In 2006 voters reelected President Luiz Inacio Lula da Silva of the Workers' Party to a second four-year term in a generally free and fair election. While civilian authorities generally maintained effective control of the federal security forces, state-level security forces committed numerous human rights abuses.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the records of several state governments were poor. The following human rights problems were reported: unlawful killings, excessive force, beatings, abuse, and torture of detainees and inmates by police and prison security forces; inability to protect witnesses involved in criminal cases; harsh prison conditions; prolonged pretrial detention and inordinate delays of trials; reluctance to prosecute as well as inefficiency in prosecuting government officials for corruption; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination against indigenous persons and minorities; failure to enforce labor laws; widespread forced labor; and child labor in the informal sector. Human rights violators often enjoyed impunity.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

The federal government or its agents did not commit politically motivated killings, but unlawful killings by state police (military and civil) were widespread.

In many cases police officers employed indiscriminate lethal force during apprehensions. In some cases civilian deaths followed severe harassment or torture by law enforcement officials. Killings by police occurred for various reasons. Confrontations with heavily armed criminals resulted in shoot-outs. Some police accused of killing suspects lacked the training and professionalism to manage deadly force. On other occasions the police behaved as criminals.

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. Credible, local human rights groups reported the existence in several states of organized death squads linked to police forces that targeted suspected criminals and persons considered problematic or undesirable by land owners.

The Catholic Church's Pastoral Land Commission reported preliminarily that during the year there were 18 confirmed killings related to disputes over land, water, and labor compared with a total of 25 such killings in 2007. Amnesty International (AI) and other credible sources stated that such killings often occurred with the participation,

knowledge, or acquiescence of state law enforcement officials.

Numerous credible reports indicated the continuing involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials.

In Rio de Janeiro, the most acute human rights problems involved indiscriminate use of force, by both on- and off-duty police, primarily in the city's poorer northern section. Residents of the city's more than 800 favelas (shantytowns), where an estimated one-third of the population (i.e., more than two million persons) lived, were at increased risk given the frequency of police actions. According to the Rio de Janeiro-based nongovernmental organization (NGO) Global Justice (GJ), impunity and nonaccountability for police actions were serious problems in the metropolis. AI claimed that Rio de Janeiro law enforcement continued to be characterized by large-scale operations in which heavily armed police units "invaded" favelas. AI added that few killings were effectively or independently investigated and that perpetrators were seldomly prosecuted successfully.

Reports of killings by Rio de Janeiro police decreased during the year under a new state security strategy. Statistics released by the Rio de Janeiro State Secretariat for Public Security showed 911 persons killed as a result of police confrontations from January through September, a 12 percent decrease over the same period in 2007. The Rio de Janeiro Institute for Public Security reported that police killed an average of four persons per day during 2007. According to a UN report released in September, police clashes resulted in 1,260 civilian deaths in Rio de Janeiro State in 2007. Most of these killings occurred during "acts of resistance," the UN report commented.

The Sao Paulo State Secretariat for Public Security reported that Sao Paulo state police (civil and military) killed 340 civilians in the state from January to September, compared with 315 during the same period in 2007. Cases involving extrajudicial executions were either under police investigation or before the state courts; observers believed that it could take years to resolve such cases.

In January in Rio de Janeiro, 17-year-old Andreu Luis da Silva Carvalho was beaten to death at the Padre Severino Youth Detention Facility after being taken into custody for petty theft. Authorities investigated the death, reportedly from brain trauma and hemorrhaging, and suspended the guards for 30 days. At year's end no further action had been taken.

In January in Sao Paulo, Colonel Jose Herminio Rodrigues, who was investigating the participation of police officers in extrajudicial killings, was shot and killed on the street. A police investigation identified three officers involved in the crime; at year's end they remained in prison, but no trial date had been set.

In June in Rio de Janeiro, three teenagers were reportedly killed by a rival drug trafficking gang. According to reports, federal military troops were involved in abducting the boys and selling them to the rival gang in Morro da Providencia favela. In response the government withdrew the federal troops (who had been deployed to provide security for a mayoral candidate's social project). Following intense media attention, the Rio de Janeiro State legislature opened an inquiry into the role of militias that uncovered extensive links among corrupt police officers, militia members, and state and municipal legislators. As a result several militia leaders, including a state deputy, were imprisoned.

On August 5, a body that had been buried in a cemetery for indigents was identified using DNA as that of 19-year-old Andre Lima de Araujo. He had been detained by police in May 2007 during a raid on the outskirts of Guarulhos. At year's end the case remained under investigation.

During the year there were reports of multiple killings (called chacinas) in Sao Paulo State, often drug-related and suspected to involve the police. Several such cases from February, May, and September 2007 remained under

investigation at year's end.

Four military police officers and a businessman were arrested in May for the killing of investigative journalist Luiz Carlos Barbon Filho in May 2007 in Porto Ferreira, Sao Paulo; at year's end they remained in custody awaiting trial. Barbon had investigated numerous cases involving corruption by state officials, including police involvement in gangs stealing freight from trucks on the highway. In November his widow reported that she and her children were being followed and harassed by persons linked to her husband's alleged killers.

There were no known developments, and none were expected, in the investigations of the June 2007 joint operations in Rio de Janeiro's favelas (Complexo do Alemão and Vila Cruzeiro) by state police and national military forces that resulted in numerous deaths and injuries, including many civilians and bystanders. According to state officials, all the deaths occurred in police confrontations. However, the president of the Rio de Janeiro State Bar Association's Human Rights and Juridical Assistance Committee, along with 16 NGOs in the state, reported to the Organization of American States that summary executions may have occurred during the operations.

The investigation of the August 2007 killings of Aurina Rodrigues Santana, Rodson da Silva Rodrigues, and their 19-year-old son in their Salvador home remained open. Despite allegations from the family that military police had tortured some of the victims three weeks prior to the killings, the ongoing civil police investigation was hindered by the reluctance of witnesses to testify. Authorities did not charge the suspected police officers but reportedly reassigned them to administrative duties.

In December the Military Police Command expelled five of six police officers accused of torturing and killing a 15-year-old the preceding December in Bauru, Sao Paulo State. The five were freed pending trial; the sixth accused remained under investigation and relieved of duty. The state government paid compensation to the victim's family.

There were no known developments, and none were expected, in the 2006 cases of the four police officers arrested for participating in death squad operations in Baixada Fluminense, Rio de Janeiro; the killing of Sergio Bezerra do Nascimento in Favela Acari in Rio de Janeiro; or the killing of five persons by military police in Niteroi, Rio de Janeiro.

At year's end there were no developments concerning Sao Paulo law enforcement officials allegedly killing persons related to 2006 riots. There were also no known developments in the case of 13 Pernambuco State military police officers charged in 2006 with torturing 14 adolescents, two of whom died, and the officers remained free awaiting trial.

On May 6 after a required retrial, Vitalmiro "Bida" Bastos Moura, convicted in 2007 of the 2005 murder of Catholic nun Dorothy Mae Stang, was found not guilty. On June 9, the president signed into law a bill that eliminated automatic retrial for defendants, like Bastos, sentenced to more than 20 years. After the confession by another defendant, Rayfran das Neves Sales, a Para State court found him guilty of the 2005 murder and sentenced him on May 6 to 28 years in prison. On December 26, according to a police report, authorities detained Regivaldo Galvao, also accused in the murder case, as part of an investigation into whether he forged titles to land where the nun was killed.

After a jury trial in March, a Rio de Janeiro State court set free Leonardo Marques, the confessed killer in 2005 of environmentalist Dionisio Julio Ribeiro Junior, due to lack of evidence.

Former military police lieutenant colonel Waldir Coppetti Neves, charged with five other military police officers for creating a paramilitary group to kill landless rural workers in Parana State, remained free while awaiting trial.

There continued to be no information, and none was expected, regarding the case of eight military police arrested in 2005 on suspicion of participating in a death squad involved in at least 26 killings in Natal, Rio Grande do Norte, over a three-year period.

Lynching by mobs or vigilante groups was common in some regions, especially against those accused of rape or other crimes that went unpunished in favelas due to the absence of state or local security agents.

b. Disappearance

There were no reports of politically motivated disappearances. However, the Center of Studies of Security and Citizenship estimated that in 2006 approximately 1,940 persons "disappeared"; the center believed many were killed by police. There were also reports of abduction by federal troops (see section 1.a.).

There were no developments in the disappearance cases that occurred during the 1964-85 military dictatorship, and 400 cases remained for the Amnesty Commission to analyze. There were also no developments regarding the 2007 Chamber of Deputies' Human Rights Committee request that the government seize documents to determine the circumstances of military regime political prisoner deaths and the locations of their remains.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem. In February the government's National Human Rights Secretariat (SEDH) acknowledged that torture existed in the country and related the problem to societal tolerance and the fear of retaliation. Federal, state, and military police often enjoyed impunity in cases of torture, as in other cases of abuse.

During the year an additional state (for a total of 13 of 26) adopted the National Plan for the Prevention and Control of Torture, which includes the installation of cameras in prisons and penitentiaries, taping of interrogations, and reversal of the presumption of innocence for those accused of torture.

During the first half of the year, the Sao Paulo State Ombudsman's Office received five complaints of torture by police, compared with seven during the same period of 2007.

Police continued to abuse transvestite prostitutes in Rio de Janeiro, Belo Horizonte, and Salvador, according to the NGO Bahia Gay Rights Group. Police routinely investigated such allegations, which rarely resulted in punishment (see section 5 Other Societal Abuses and Discrimination).

In Rio de Janeiro, militia members reportedly continued to use physical abuse, degrading treatment, and torture to spread fear and establish control over favela residents. While militia members, many of them off-duty and former law enforcement officers, often began by taking community policing into their own hands, many intimidated residents and conducted other illegal activity.

In May militia members reportedly kidnapped, tortured, and released two O Dia newspaper investigative journalists in Rio de Janeiro's Batan favela, when they were discovered living there undercover to investigate militias.

The Rio de Janeiro military police officer, who publicly defended the use of torture in 2007 and was subsequently transferred, was assigned command of the 38th Military Police Battalion in Tres Rios.

The nine police officers, including the police chief of Osasco, Sao Paulo--charged in 2007 with theft, torture,

extortion, beating, and threatening to rape to extort money--remained free and continued to await a trial that at year's end was not scheduled.

In October 2007 the Inter-American Commission on Human Rights (IACHR) adopted several findings in a case originated in 1998--that authorities had violated the rights of Antonio Ferreira Braga by illegally arresting and torturing him in 1993 in Ceara State, and that the government had failed to prevent and punish said acts--and also made four recommendations. After various exchanges the IACHR announced on July 18 that the government had fulfilled one recommendation (training police on humane treatment), but not two others (investigation and punishment of those responsible, compensation of the victim), and that one remained pending (investigation of possible negligence of authorities).

Prison and Detention Center Conditions

Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. Abuse by prison guards, poor medical care, and severe overcrowding occurred at many facilities.

Prison officials often resorted to brutal treatment of prisoners, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons. Poor working conditions and low pay for prison guards encouraged widespread corruption. Prisoners who committed petty crimes were held with murderers. According to the National Penitentiary Department, in June there were 392,279 prisoners incarcerated, 40 percent more than the system's design capacity, and the number increased approximately 3,000 per month.

During the year 135 prisoners were involved in riots from January to June in federal prisons. There were several official complaints of overcrowding in Goias, Rio de Janeiro, Sao Paulo, and Minas Gerais states.

In Rio de Janeiro, pretrial detainees were often held together with convicted prisoners due to overcrowding. In August the state Court of Justice released a plan, which authorities began implementing, to improve conditions for its 23,000 prisoners. Sentences are to be comprehensively reevaluated based on prison space availability, with a pilot project in the Placido Sa Carvalho and Carlos Tinoco da Fonseca prisons. The state also began implementing its plan to remove military police officers from prison duty and replace them with 240 civilians.

The Catholic Church's Ministry for the Incarcerated in Sao Paulo State reported that authorities used police stations in the state capital as prisons, increasing the risk of mistreatment and torture. The ministry also reported that penitentiary construction continued but did not alleviate overcrowding. The state's criminal justice system as a whole continued to sentence more defendants to prison or detention each month than it released. Many inmates were also held beyond their sentences. In January prisons in Sao Paulo State held nearly 152,000 adults, approximately 30 percent above design capacity.

In January eight prisoners died in a prison fire in Minas Gerais State when a guard left his post and no one else had keys to the facility.

In February prisoners in Minas Gerais complained of rats and scabies in the jail. Thirty inmates occupied a 320-square-foot space without exposure to sunlight and suffered from untreated injuries.

Also in February prisoners in Aguas Lindas, Goias State, complained of overcrowding (120 inmates in a jail with capacity for 37), spoiled food, and trial delays for lack of public defenders.

A congressional investigative report presented in June described conditions in the Contagem prison in Minas Gerais

where 70 prisoners, confined to cells built for 12 persons, were obliged to alternate sleeping schedules. Overcrowding made bathroom facilities unusable. The report also revealed that prison overpopulation in Bahia led to the use of 20 temporary containers to hold more than 150 prisoners at the Mata Escura facility in Salvador. After an investigation determined that the containers were infested with rats and cockroaches and not properly ventilated, authorities prohibited their use.

In the August 2007 gang dispute and resultant fire in an overcrowded jail in Ponte Nova, Minas Gerais, which killed 25 inmates, the state civil police investigation resulted in indictments of 23 individuals for allowing weapons into the facility and failing to respond adequately to the incident.

The Women's Penitentiary of Santana in Sao Paulo, a former men's facility remodeled to accommodate female prisoners, remained in precarious condition, although health care improved in response to human rights organization requests.

Rio de Janeiro and Sao Paulo states and the Federal District provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers who served in women's prisons often abused and extorted the prisoners for sexual favors.

In the Federal District, one juvenile detention center did not meet the requirements and recommendations established by the National Socio-Educational System and the Statute of the Child and Adolescent. TV Globo reported that one adolescent was killed and several injured in riots.

Media reported that throughout the country adolescents were jailed with adults in prison units without bathrooms and in inhumane conditions. Insufficient capacity in juvenile detention centers was widespread. However, the Sao Paulo State's Office for the Defense of Children and Youth reported that there were no longer any juvenile criminals incarcerated with adults within the state. Under court order the state's Foundation House (formerly FEBEM) provided new facilities for them. NGOs confirmed improvements in the Sao Paulo State juvenile detention system during the year, including construction of more modern facilities, replacement of large complexes with smaller units, a decreased number of incarcerated juvenile criminals, and increased focus on guard and staff training and performance.

While authorities attempted to hold pretrial detainees separately from convicted prisoners, overcrowding often required holding convicted criminals in pretrial detention facilities. In addition abuses continued in municipal jails and detention centers throughout the country.

The investigation into September 2007 reports of prisoners being forced to be sex slaves and have their actions recorded on camera in a prison in Santa Rita de Caldas, Minas Gerais, led to indictments in November 2007 and the transfer of many of the prisoners to the penitentiary in Andrades, Minas Gerais.

The investigation into the November 2007 incident in Abaetetuba, Para, in which a 15-year-old girl was held for a month in a police cell with at least 20 men who repeatedly abused her sexually, concluded in March with indictments of 12 persons, including 10 police officers.

It is government policy to permit prison visits by independent human rights observers; however, in practice this policy often was not followed. GJ representatives reported that they are commonly denied access to detention facilities and that their level of access to prisons varied. In the states of Sao Paulo and Rio de Janeiro, GJ found access difficult, particularly in the Ary Franco prison in Agua Santa, Rio de Janeiro.

Having obtained judicial authorization to enter juvenile detention facilities in Sao Paulo, human rights advocates

reported an improvement in their general conditions. Foundation House continued slowly dismantling the large out-of-date Frano da Rocha detention center that was the scene of inmate violence.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and it limits arrests to those caught in the act of committing a crime or arrested by order of a judicial authority; however, police continued at times to arrest and detain persons arbitrarily.

Role of the Police and Security Apparatus

The Federal Police, operating under Ministry of Justice oversight, is small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units: The civil police are plainclothes officers with an investigative role, while the military police are uniformed officers charged with maintaining order and preventing crime. Although the individual state governments control their respective military police forces, the constitution provides for calling them into active military service in the event of an emergency, and they maintain some military characteristics and privileges, including a separate judicial system.

To reduce the number of deaths resulting from police confrontations, the Rio de Janeiro State Public Secretary announced a state budget item of approximately 1.25 million reais (approximately \$500,000) to purchase less lethal weapons for the police arsenal and a state initiative to provide more officer training on procedures during confrontations.

In the favelas, militia groups often start as off-duty and former law enforcement officers taking community policing into their own hands. However, many militia groups come to resemble drug trafficker groups in intimidating residents and conducting illegal activity such as extorting protection money, imposing tribute fees, and providing pirated utility services. The number of militias with police participation continued to increase in Rio de Janeiro. Punishing police involved in militia activity was difficult due to solidarity and fear of reprisals. Police often did not conduct operations in communities dominated by militias. State authorities estimated that militias have taken over nearly 100 favelas from drug trafficker control, mostly in the city's west.

In August a militia group called the "Justice League" was believed to have killed seven residents in Rio de Janeiro's Barbante favela. According to the State Secretariat for Public Security, 17 militia members entered the community and shot individuals at random in an attack reportedly orchestrated by former military police officer Luciano Guinancio, the son of a Rio de Janeiro city council member who was jailed in 2007 for organizing illegal militia activity in the same area. Three other active-duty military police officers were suspected of involvement. However, due to a lack of evidence, no charges were brought.

There were two convictions of Rio de Janeiro military police officers during the year for killings in the so-called "Baixada Massacre" of 2005.

Arrest and Detention

With the exception of arrests of suspects caught in the act of committing a crime, arrests must be made with a warrant. The use of force during an arrest is prohibited unless the suspect attempts to escape or resists arrest. Suspects must be advised of their rights at the time of arrest or before being taken into custody for interrogation.

Authorities generally respected the constitutional right to a prompt judicial determination of the legality of

detention. Detainees generally were informed promptly of the charges against them. The law permits provisional detention for up to five days under specified conditions during a police investigation, but a judge may extend this period. A judge may also order temporary detention for an additional five days for paperwork processing. Preventive detention for an initial period of 15 days is permitted if police have indications that a suspect may leave the area. This can be renewed under specific circumstances. Occasionally detainees--typically poor and uneducated--were held longer than the provisional period.

Defendants arrested in the act of committing a crime must be charged within 30 days of arrest. Other defendants must be charged within 45 days, although this period may be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants. Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing. In general prison authorities allowed detainees prompt access to a lawyer; indigent detainees had the right to a lawyer provided by the state. Detainees were also allowed prompt access to family members.

Human rights observers stated that civil and uniformed police regularly detained persons illegally to extort money or favors. Between January and September, the Sao Paulo State Ombudsman's Office received one complaint of extortion, equal to the number for the same period in 2007.

The law does not provide for a maximum period for pretrial detention, which is defined on a case-by-case basis. Time in detention before trial is subtracted from the sentence.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and to political and economic influences, particularly at the state level, a situation that resulted in vigilante action. A number of senior judges remained under investigation nationwide on a variety of charges.

Although the law requires that trials be held within a set period of time, which is defined according to individual circumstances, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard.

The judicial system ranges from courts of first instance and appeals, through courts of second instance and the Superior Court of Justice, to the Federal Supreme Court. States organize their own judicial systems within the federal system and must adhere to basic constitutional principles. There are specialized courts for police, military, labor, election, juvenile, and family matters.

Trial Procedures

The right to a fair public trial as provided by law generally was respected in practice, although in some regions--particularly in rural areas--the judiciary was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay.

After an arrest a judge reviews the case, determines whether it should proceed, and, if so, assigns it to a state prosecutor who decides whether to issue an indictment. The law recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

Defendants have the right to confront and question witnesses, enjoy a presumption of innocence, and have a right

to appeal. At the appellate level, a large case backlog hindered the courts' ability to ensure fair and expeditious trials.

While the law provides for the right to counsel, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases the court must furnish a public defender or private attorney at public expense. The Rio de Janeiro State's 35 public defenders, however, provide assistance only to prisoners who have already been convicted. The Public Ministry continued hiring public defenders, but a deficit remained in all states.

The law mandates that special police courts exercise jurisdiction over state military police except those charged with "willful crimes against life," primarily homicide. In all but the most egregious cases, police tribunals decided whether or not the killing was willful. As a result civilian courts, which have jurisdiction over killings by police, received very few case referrals involving police killings. In addition the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations. The police themselves were often responsible for investigating charges of torture carried out by fellow police officers. Long delays in the special military police courts allowed many cases of alleged torture and lesser charges to expire due to statutes of limitations.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

On September 23, the Ministry of Justice Amnesty Commission ruled that 41 activists imprisoned for labor activities during the military dictatorship (1964-85) were entitled to indemnization. The ruling awarded 27 persons settlements of approximately 390,000 reais (approximately \$156,000) plus monthly payments of 3,000 reais (\$1,200), while another 12 activists were awarded a single payment averaging approximately 117,500 reais (\$47,000).

Civil Judicial Procedures and Remedies

While the justice system provides for an independent civil judiciary, courts were overburdened with significant backlogs and sometimes were subject to corruption, political influence, and intimidation. Citizens have access to bring lawsuits before the courts for human rights violations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, but there were reports that police conducted searches without a warrant. Human rights groups, other NGOs, and media reported frequent incidents of violent police invasions in shantytowns and poor neighborhoods. During these operations police stopped and questioned persons and searched cars, residences, and business establishments without warrants. Victims reported searches without warrants and abusive and violent searches of women. Wiretaps authorized by judicial authority were permitted. The inviolability of private correspondence generally was respected.

In August *Veja* magazine revealed that unknown persons had tapped a telephone call between Senator Demostenes Torres and Supreme Court President Gilmar Mendes. The senator accused the Brazilian Intelligence Agency (ABIN) and, after a Federal Police investigation, the president placed ABIN Director Paulo Lacerda on administrative leave.

Section 2 Respect for Civil Liberties Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

Criminal as well as other elements, such as political party activists, subjected journalists to violence, sometimes specifically because of their professional activities. In February the NGO, Reporters without Borders, stated that violence and threats against reporters were constant. It noted that two journalists were killed in 2007, and at least one of those cases appeared linked to the victim's profession. The organization also accused the government of exerting undue media control in Mato Grosso do Sul, Santa Catarina, Sao Paulo, and Bahia states.

In February the Supreme Court suspended all legal actions brought against journalists and media companies that were based on a press law dating from the last military dictatorship, which had allowed lawsuits against journalists for allegedly causing moral damage.

In July the National Press Association protested against the intimidation of three journalists who covered municipal elections in Rio de Janeiro. The journalists, who had photographed a mayoral candidate shaking hands with criminals in a well-known shantytown, were forced by the criminals at gunpoint to delete their photos. No investigation or prosecution followed.

The National Federation of Journalists continued to report cases of violence against, and failure to respect freedom of, the press during the year, but no statistics were available by year's end.

In April the Inter American Press Association called on the public to urge the country's president to solve the 2004 killing of radio commentator Jorge Lourenco dos Santos in Santana do Ipanema, Alagoas; and to recall that other suspected killers of journalists remained unapprehended and seven other such killings remained unsolved.

In December authorities granted early release for good behavior to two gang-member prisoners, Claudio Orlando do Nascimento and Claudinho dos Santos, who had received multiyear sentences in 2005 for the 2002 murder of TV Globo reporter Tim Lopes. Lopes was investigating the sexual exploitation of minors by drug traffickers in Rio de Janeiro's Vila del Cruzeiro favela when he was killed.

At year's end journalist and newspaper editor Fausto Brites remained free pending appeal to the Federal Court of Justice in Mato Grosso do Sul State of his 10-month prison sentence in 2006 for defamation.

Internet Freedom

There were generally no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e mail. The International Telecommunication Union reported that there were 27 Internet users per 100 inhabitants in 2007.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

It is illegal to write, edit, publish, or sell books that promote anti-Semitism or racism. The law enables courts to fine or imprison anyone who displays, distributes, or broadcasts anti-Semitic or racist materials and mandates a two- to five-year prison term. The government officially equates anti-Semitism to racism.

According to the country's Jewish Confederation, there were approximately 120,000 Jewish residents, of whom approximately 60,000 were in Sao Paulo State and 40,000 in Rio de Janeiro State.

There were reports of violence against Jewish persons. Jewish community leaders expressed concern over the continued appearance on Web sites of anti-Semitic material compiled by neo-Nazi and "skinhead" groups. The Jewish Federation of Sao Paulo reported cases of anti-Semitic graffiti, harassment, vandalism, and threats via telephone and e-mail.

Police and Jewish Federation of Sao Paulo representatives stated that anti-Semitic Web sites and blogs grew rapidly during the year. Occasional anti-Semitic graffiti and anti-Semitic epithets directed at Orthodox Jews were also visible in some of Sao Paulo's traditional Jewish neighborhoods.

At year's end the 2nd Court of Justice of Porto Alegre continued to take testimony but had not set a trial date in the 2005 case of 14 persons charged with attempted murder, gang formation, and racism for attacking three Jewish students in Porto Alegre, Rio Grande do Sul.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice, although there were restrictions on entry into protected indigenous areas.

The law prohibits forced exile, and it was not practiced.

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

The UNHCR estimated that approximately 600 persons fled to the country from the September conflict in Pando, Bolivia, and 70 requested asylum.

According to the National Committee for Refugees, at the end of the year there were 3,918 recognized refugees in the country. During the year authorities granted refugee status to 226 individuals. Those who maintain their status, which is reviewed every two years, may receive identity and travel documents and work and study in the country.

From 1998 to 2008, 4,515 persons sought asylum, according to news reports. There were, in addition to officially recognized refugees, approximately 17,500 de facto Colombian refugees in the country's Amazon region, according to the 2008 World Refugee Survey. Many asylum seekers did not have government support because of the poor infrastructure in the region. Relations with local communities were increasingly difficult because of pressures on the educational and health systems.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Military conscripts may not vote.

Elections and Political Participation

In the 2006 national election generally considered free and fair, Workers' Party candidate Luiz Inacio Lula da Silva won a second four-year term as president.

Militias were suspected of intimidating residents of Rio de Janeiro's favelas to vote for particular candidates in October municipal elections. The defense minister deployed army troops to 24 communities, identified by the Regional Electoral Court as at-risk for voter intimidation by militias and other criminal organizations, to supplement local security forces in protecting the election process. In the event no major incidents of voter intimidation were reported.

Political parties operated without restriction or outside interference.

Women have full political rights. The law requires that 30 percent of candidates in each political party must be registered by women. There were 10 women in the 81-member Senate and 45 women in the 513-member Chamber of Deputies. There were two women in the cabinet, two on the Federal Supreme Court, and one on the Military Superior Court. Women occupied 11.2 percent of elected seats at the state level and 12.6 percent at the municipal level.

There were 17 self-identified Afro-Brazilians in Congress, according to the Black Parliamentary Center. There were three self-identified Afro-Brazilians in the cabinet and one on the Federal Supreme Court.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's worldwide governance indicators reflected that corruption was a serious problem.

In June Federal Police uncovered an alleged scheme involving fraudulent public works contracts valued at an estimated 1.05 billion reais (approximately \$420 million). Police operation "Joao de Barro" claimed that four

members of the Chamber of Deputies conspired to defraud the government through contracts for projects in 119 cities. Despite the allegations the government authorized some of the investigated contracts to be paid in August, under the scrutiny of the Comptroller General's Office; the Federal Police head in Minas Gerais State announced the investigations were concluded; and by year's end no formal charges had been laid.

On July 8, Federal Police broke up an alleged financial crimes scheme, in operation since 2004, that included money laundering, tax evasion, conspiracy, and other crimes involving public funds. At year's end the investigation was ongoing; several senior officials were suspected of involvement, but none had been charged. On December 2, in a related case, a federal judge sentenced the Opportunity Bank owner to 10 years in prison for corruption.

On September 16, Federal Police temporarily detained Romero Menezes, the executive director of the Federal Police and its second-ranking official, under suspicion of leaking information to his brother about an investigation into a fraud scheme involving a railroad concession in Amapa. Authorities placed Menezes on administrative leave, and the Federal Police head replaced the officers in charge of the investigation, which was continuing at year's end.

On May 13, following Federal Police accusations in 2007 of conspiracy to defraud the government through overpriced public works contracts, the Public Ministry formally charged 61 persons, including a former minister of mines and energy, two state governors, and two former state governors.

Although in 2007 the Supreme Court ruled that prosecution should proceed, during the year there were no significant developments in the cases pending against 40 persons accused of illegal payments to legislators in exchange for support of government legislation.

Public officials were subject to financial disclosure laws. Federal government entities such as the Federal Audit Court, the Federal Controller General, the Public Ministry, the Federal Police, the judiciary, the Department of Revenue and Control of Financial Activities, and the Federal Treasury existed to fight corruption. The agencies identified campaign financing and public spending as sources of financial corruption; however, they had limited powers to function effectively.

The law provides for public access to unclassified government information upon application to the Commission for Public Ethics; however, the bureaucratic process often slowed release of such information.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Federal officials often were cooperative and responsive to their views. Although federal and state officials in many cases sought the aid and cooperation of domestic and international NGOs in addressing human rights problems, human rights monitors occasionally were threatened and harassed for their efforts to identify and take action against human rights abusers, particularly by members of the state police.

While most states had police ombudsmen, some NGOs and human rights observers questioned their independence and effectiveness. The ombudsmen's accomplishments varied considerably, depending on such factors as funding and outside political pressure.

The Chamber of Deputies and the Senate each have human rights commissions that operated without interference and participated in several activities nationwide in coordination with domestic and international human rights organizations.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Although the law prohibits and penalizes discrimination on the basis of race, gender, disability, or social status, discrimination against women, Afro-Brazilians, homosexuals, and indigenous persons continued.

Women

Rape, including spousal rape, is a crime punishable by eight to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The federal government continued to operate a toll-free 24-hour hot line nationwide. It received 269,977 calls during the year, a 32 percent increase compared with 2007, including reports of 13,785 cases of physical violence, an additional 6,499 cases of threats of violence, 298 rapes, and 261 attempted killings. According to data from January to June, approximately 60 percent of the callers reported being beaten daily and 18 percent, weekly; 64 percent of the callers reported being beaten by domestic partners, who in the majority of cases were under the influence of alcohol or drugs. From January to September, the Sao Paulo State Secretariat for Public Safety registered 2,562 rape cases, compared with 4,045 during the same period in 2007. There was no information available on the numbers of prosecutions or convictions for rape.

Domestic violence remained both widespread and underreported. During the year there were 24,523 cases of domestic violence registered nationwide, compared with 20,050 cases in 2007. For such cases the law increases the penalty from one to three years in prison and creates special courts. The federal government stimulated the creation of these courts and promoted capacity-building courses for judges. There were at the end of the year a total of 61 such courts established, along with 15 public defender positions to provide free legal assistance to domestic violence victims. At least 17 of the 26 states plus the Federal District had such courts. There was no information available on the numbers of prosecutions or convictions for domestic violence.

Each state secretariat for public security operated "delegacias da mulher" (DEAMs), police stations dedicated exclusively to addressing crimes against women, for a total of 415 countrywide. The quality of services varied widely, and availability was particularly limited in isolated areas. For example, the North and Northeast regions, which contained approximately 35 percent of the country's population, possessed only 24 percent of the country's DEAMs. The stations provided psychological counseling, temporary shelter, and hospital treatment for victims of domestic violence and rape (including treatment for HIV and other sexually transmitted diseases) as well as criminal prosecution assistance by investigating and forwarding evidence to courts. There were also 123 reference centers and 66 women's shelters.

In Rio de Janeiro, the city's Rio Women Program provided assistance to female victims of domestic violence who received death threats. When necessary, victims were sent to specific shelters, which also provided psychological and legal aid. In addition to the Women Program, victims of domestic violence could obtain assistance at the Center for Women's Support, an initiative of the Rio de Janeiro state government that offered a complaint hot line, shelters, and psychological and legal aid.

The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically in order to collect evidence and statements should the victim decide to prosecute.

Prostitution is legal, but exploiting it through associated activities, such as operating a brothel, is illegal. While no specific laws address sex tourism, it is punishable under other criminal offenses, and there was a government-released "code of conduct to combat sex tourism and sexual exploitation" and government-conducted campaigns in the most affected areas. The Federal District and the states of Pernambuco, Espirito Santo, Amazonas, and Parana enacted laws requiring certain businesses to display signs listing the penalties for having sexual intercourse with a

minor. Rio de Janeiro and Bahia states had similar legislation. Women's groups reported that prostitutes encountered discrimination when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem.

Sexual harassment is a criminal offense, punishable by up to two years in prison. The law encompasses sexual advances in the workplace or in educational institutions and between service providers or clients. In the workplace it applies only in hierarchical situations, where the harasser is of higher rank or position than the victim. Although the law was enforced, accusations were rare, and the extent of the problem was not documented.

Women have the same legal rights as men. A cabinet-level office, the Secretariat for Women's Policy, oversees a special entity charged with ensuring the legal rights of women. Although the law prohibits discrimination based on gender in employment and wages, there were significant wage disparities between men and women. According to the Ministry of Labor and Employment (MTE), women were often paid less than men in the same functions.

The law provides 120 days of paid maternity leave to women and seven days of paternity leave to men. The law also prohibits employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates, but some employers sought sterilization certificates from female job applicants or tried to avoid hiring women of childbearing age. Violations of the law are punishable by jail terms of up to two years for employers, while the company may be fined 10 times the salary of its highest-paid employee.

Children

The government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education.

The percentage of births registered in 2007 was 89 percent according to the Brazilian Institute of Geography and Statistics (IBGE). There were wide discrepancies between the more affluent states of the south and southeast and the poorer states of the north and northeast regions of the country, with the states of Bahia, Ceara, Maranhao, and Sergipe each registering fewer than 80 percent of births and the states of Alagoas, Piaui, Amapa, and Roraima, fewer than 70 percent.

While the law prohibits subjecting any child or adolescent to any negligence or abuse, such abuse was a major problem. The SEDH-operated National Hot Line of Sexual Abuse and Exploitation against Children and Adolescents registered 32,588 reports of abuse, compared with 23,368 in 2007, a 40 percent increase. According to SEDH the increase does not necessarily represent an increase in cases of abuse, but rather an increase in denunciations to the hot line as public campaigns raise awareness.

Physical and psychological aggression was a major problem, with more than 10,900 complaints (or approximately one third of the total) recorded by the national hot line, a decrease compared to the more than 19,000 complaints in 2007 in this category. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively.

Child prostitution was a problem, with extreme poverty the primary contributor. A study released in 2006 by the University of Brasilia, SEDH, and the UN Children's Fund found commercial sex involving children and adolescents in 927 of 5,561 municipalities. The largest percentage of these cases occurred in the Northeast, but all areas of the country had reported incidents.

According to the NGO Reference Center on Children and Adolescents (CECRIA), patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon, region

sexual exploitation of children took place in brothels that catered to mining settlements. In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and also trafficked them outside the country. Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders.

The Federal Police estimated that upward of 250,000 children were involved in prostitution. The national hot line reported that there were 10,125 cases of sexual exploitation of children and adolescents during the year. The 2006 University of Brasilia study found that 398 of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents. Trafficking in children for the purpose of prostitution was a serious problem. The national hot line received 78 reports of such trafficking both domestically and internationally, compared to 93 in 2007.

At midyear Federal Police in Manaus began investigating allegations that a foreign-owned travel company arranged fishing expeditions to the Amazon region that were in reality sex tours for U.S. and European pedophiles. At year's end the investigation was continuing in coordination with foreign law enforcement officials.

There were no developments in the child prostitution network case involving two aldermen in Para State, Roberto Alan de Souza Costa and Adson de Azevedo Mesquita. The Human Rights Committee of the Chamber of Deputies opened an investigation in 2007, but the committee's investigator was killed in a car crash in Para. The circumstances of his death were unclear, and his investigation papers were missing when police arrived at the scene.

All four persons (two citizens, two foreigners) arrested in Taquara, Rio Grande do Sul, in December 2007 on suspicion of pedophilia and trafficking of children were freed at year's end pending trial.

The primary federal program to assist child victims of commercial sexual exploitation was the Sentinel Program, which established local reference centers to provide victims with psychological, social, and legal services and raised awareness through information campaigns, workshops, and partnerships. The Ministry of Tourism continued to promote the code of conduct it developed to prevent the commercial sexual exploitation of children in the tourism industry, distributed public awareness campaign materials for display within tourism-related establishments, and continued to distribute awards to entities responsible for combating sexual exploitation of children within the industry. The Federal Highway Police and the International Labor Organization (ILO) published data on places such as gas stations, bars, restaurants, motels, and night clubs along highways considered to be areas for sexual exploitation of children and adolescents.

In Rio de Janeiro city, the Secretariat for Social Assistance coordinated aid to street children and minors who were victims of sexual abuse and exploitation. During the year the city increased from two to 10 the number of centers that provided social services, counseling, and shelters. The city also continued its telephone hot line for reporting cases of child sexual abuse and exploitation. The Sao Paulo city government continued to operate several programs for street children, including one that used rehabilitation and social reinsertion into other geographic areas to save the lives of adolescents condemned to death by drug traffickers.

Trafficking in Persons

Although the law criminalizes all forms of trafficking, persons were trafficked from, within, and, to a lesser extent, to the country. Government statistics on the problem were unavailable, but authorities continued to estimate that thousands of women and adolescents were trafficked annually, both domestically and internationally, for

commercial sexual exploitation.

Women were trafficked from all parts of the country. The government reported that trafficking routes existed in all states and the Federal District. The National Research on Trafficking in Women, Children, and Adolescents for Sexual Exploitation Purposes identified 241 international and national trafficking routes.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters. Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops, primarily in the city and state of Sao Paulo. Labor recruiters generally recruited laborers from small municipalities in the North and Northeast and transported them to ranches and plantations in remote areas in the central western part of the country. Most internally trafficked slave laborers originated from the states of Maranhao and Piaui, while Para and Mato Grosso received the highest number of internally trafficked slave laborers.

Internal trafficking supplied forced labor, primarily from urban to rural areas, for agricultural work and commercial sexual exploitation. This typically occurred when employers recruited laborers from poor rural towns and transported them to remote areas where escape was difficult. Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts.

Sex tourism existed throughout the country but was most apparent in coastal resort towns in the Northeast, South, and Southeast and in such major tourist destinations as Rio de Janeiro and Fortaleza, Ceara, as well as in the wildlife tourist areas of the Pantanal and Amazon.

CECRIA found that typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons exploited in trafficking schemes typically came from low-income families and usually had not finished high school. Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies or through the Internet, want ads, mail-order bride schemes, or maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with counterfeit documents.

Police officials believed that some women recruited by trafficking organizations understood they were to work as prostitutes but did not know about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or domestics. Upon arrival the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control victims. Trafficking in persons was linked to international networks of crime, including drugs, arms trafficking, and money laundering. Traffickers were predominantly citizens and were usually associated with such activities as brothels, escort agencies, nightclubs, and tourist agencies.

The law establishes a penalty of up to eight years' imprisonment and a fine for internal or external trafficking in persons for the purposes of prostitution; sentences may be increased up to 12 years when violence, threats, or deception are involved. The law requires the permission or presence of both parents for children to leave the country; it also prohibits children from leaving the country with a foreigner unless authorities grant prior approval.

Laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking. Violators of antitrafficking laws rarely received criminal penalties because of statutes of limitation. Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the

victims. According to police, some women who left the country with traffickers did so willingly. Fear of reprisals and lack of awareness of legal recourse also kept victims from seeking police intervention or testifying against traffickers. In addition, because trafficking in persons laws were relatively new in the country and not fully understood by many judicial officials, courts often misclassified such cases. As a result, numbers of criminal convictions for trafficking offenses were low.

Fifteen government ministries and cabinet-level secretariats were involved in implementing the national antitrafficking in persons plan released in January. Included were various agencies of the Ministry of Justice (including the Federal Police), SEDH, MTE, Ministry of Tourism, and Ministry of Social Development. The Federal Highway Police was responsible for checking documents and monitoring traffic along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect recruitment by sex traffickers. Operating under the National Justice Secretariat, antitrafficking offices in the states of Sao Paulo, Rio de Janeiro, Ceara, and Goias monitored domestic and international trafficking.

According to the UN Office for Drugs and Crime, there were four convictions for international sex trafficking during the year, three from Goias State and one from Santa Catarina State. In one of those cases, the Federal Court in Goias State on March 13 convicted four persons for international trafficking of women and sentenced them to thirteen years in prison. The victims had been trafficked primarily to Spain for sexual exploitation.

According to the Federal Police, there were 35 investigations conducted into cases involving trafficking of persons from January until June. Authorities arrested 14 individuals during the year for internal and international trafficking in persons in the following states: two from Sao Paulo, four from Ceara, six from Mato Grosso, and two from Goias. In one of those operations ("Operation Madrid"), the Federal Police arrested six persons from the states of Matto Grosso do Sul and Goias who were involved in an international organization and charged them with recruiting and trafficking women from the country into prostitution in Spain. The Public Ministry charged all six with the crimes of international trafficking and conspiracy for illegal purposes. At year's end the case was before the Mato Grosso Federal Court.

Trafficking victims were not treated as criminals, and police usually referred victims to centers for treatment and counseling. However, access to such services was limited due to a lack of government support, and efforts often were inconsistent and underfunded. The government cooperated with a number of shelters or health care facilities specifically dedicated to trafficking victims, and workers at more than 600 victim assistance centers were trained to assist trafficking victims. The Secretariat of Social Assistance of the Ministry of Social Development and Combating Hunger operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. NGOs provided victims assistance in job training, counseling, and other community reintegration assistance. Locally based NGOs assisted trafficking victims with retraining and counseling activities. SEDH maintained a national witness protection system into which 17 states were integrated. The federal government invested 12 million reais (approximately \$5 million) into the witness program in 2007 and brought 630 individuals under its protection during the year.

SEDH conducted antitrafficking information campaigns. The National Secretary for Justice continued to lead a government public awareness campaign to deter international traffickers and sensitize their potential victims to the dangers. Sao Paulo and Pernambuco states and others carried out similar, statewide campaigns.

Labor organizations and NGOs continued to conduct prevention campaigns, including one case of pamphlet distribution to rural workers in areas that historically served as targets for traffickers, to supplement Federal Police and state civil police efforts.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the federal government effectively enforced these provisions. However, state governments failed to meet legally mandated targets for educational opportunities and work placement. While federal and state laws have provisions ensuring access to buildings for persons with disabilities, states did not have programs to enforce them effectively. For instance, while the Sao Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances and other accommodations for persons with disabilities, such persons had continued difficulty in securing necessary accommodations.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within SEDH, have primary responsibility for promoting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

Although the law prohibits racial discrimination, darker-skinned citizens, particularly Afro-Brazilians, frequently encountered discrimination.

The law specifically prohibits denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits, and provides jail terms for, the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets.

Afro-Brazilians, representing almost half the population, were significantly underrepresented in the government, professional positions, and the middle and upper classes. They experienced a higher rate of unemployment and earned average wages approximately half those of a white person. There was also a sizeable racial education gap.

In February in a government report to the UN, SEDH acknowledged the existence of racism in the country but stated that the government took and was taking affirmative actions to reduce it, including university admission quotas for Afro-descendants.

Major public universities in the Federal District and the states of Sao Paulo, Rio de Janeiro, Parana, Mato Grosso, Minas Gerais, Espirito Santo, and Bahia maintained affirmative action programs; for instance, the University of Brasilia set aside 25 percent of its first-year 2007 vacancies for self-declared students of color. According to a study from Rio de Janeiro Federal University released in January, approximately half of the public federal and state universities had a quota system or an exam bonus.

Indigenous People

The law grants the indigenous population broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands. Although many problems existed, the government made limited progress in securing these rights.

The National Indigenous Foundation (FUNAI) estimated that there were 460,000 indigenous persons in 225 societies on indigenous lands and an additional 100,000 to 190,000 indigenous persons living outside these areas, including in urban environments.

The government estimated that more than half of the country's indigenous persons lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts, including land development, agricultural

expansion, and mining. FUNAI reported that indigenous persons also faced other problems, including disease, poor health care, and loss of native culture.

While the 1988 constitution charged the federal government with demarcating indigenous areas within five years, the four phases of the process (identification, declaration, approval, and registration) were not completed. According to the Indigenous Missionary Council (CIMI), some presidential efforts to demarcate indigenous areas were blocked. For example, legal actions resulted in the seizure of three of the 20 areas in Santa Catarina State that the president considered indigenous in 2007. According to CIMI the governors of Santa Catarina and Mato Grosso states and the former governor of Mato Grosso do Sul State were the primary opponents of demarcation.

The law provides indigenous persons with exclusive beneficial use of the soil, waters, and minerals on indigenous lands, but Congress must approve each case. The government administers the lands but must consider the views of affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use. However, indigenous leaders and activists complained that indigenous persons had only limited participation in decisions taken by the government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders.

Nonindigenous persons who illegally exploited indigenous lands for mining, logging, and agriculture often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI, which acknowledged insufficient resources to protect indigenous lands from encroachment, depended on the understaffed and poorly equipped Federal Police for law enforcement on indigenous lands.

Disputes between indigenous and nonindigenous persons occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights.

According to CIMI 53 indigenous persons were killed during the year, a 42 percent reduction from 2007. Of those killed, 40 were members of the Guarani-Kaiowa tribe in Mato Grosso do Sul State. Maranhao State had two deaths during the year, attributed to conflict between indigenous persons and illegal wood-extracting companies, compared with 10 in 2007.

During the year 34 members of the Guarani-Kaiowa tribe committed suicide. The Mato Grosso do Sul civil police investigation into the suicides was continuing at year's end.

A confrontation occurred in March in Roraima State when indigenous persons from the Raposa Serra do Sol reservation opposed Federal Police officers carrying out a court order to remove rice growers from the reservation. Police arrested the head of the rice producers and charged him with obstruction of justice and disobedience.

In May armed guards protecting a farmer's rice field reportedly shot and wounded 10 indigenous persons who were building their homes on the Raposa Serra do Sol reservation. The government sent federal agents to the reservation to prevent further violence.

In October Federal Police officers, inspecting eviction-order areas, allegedly used excessive force in attempting to detain indigenous chief Rosival Ferreira da Silva of the Tupinamba community in Serra do Padeiro, Bahia State. They also reportedly detained and beat his brother.

At year's end there were no known developments in the police investigation of the July 2007 killing of indigenous leader Ortiz Lopes in Mato Grosso do Sul State.

In August members of the Xacriaba tribe in Miravania, Minas Gerais, met with representatives from the Federal Prosecutor's Office, the Federal Police, Minas Gerais Civil Police, and FUNAI to pursue their complaint concerning the September 2007 beating to death by two teenagers and an adult of a tribe member resulting from an argument after a party. The meeting followed a highway-blocking protest and two additional killings. The Minas Gerais State Court sentenced the teenagers to 45 days' home detention; trial of the adult, who was charged with murder by the state Public Ministry, was pending at year's end.

During the year civil society, the government, and NGOs discussed infanticide in indigenous tribes. The number of such deaths was unknown, although a former FUNAI president estimated that 10 children were killed during the year in different tribes.

The precarious health situation of indigenous groups continued in many states. The Marsal de Souza Center of Human Rights continued to believe that the Guarani-Kaiowa group in Mato Grosso do Sul was at risk because they lived in very poor conditions in roadside tents. In Rondonia, Mato Grosso do Sul, and Maranhao states, indigenous persons complained of poor transportation for bringing doctors to communities and taking patients to hospitals.

In the 2007 case of the contested demarcation of the Raposa do Sol indigenous reserve in Roraima State, the Supreme Court initiated final judgment, but it was suspended when one judge requested more time. A final decision was pending at year's end, although eight of the 11 judges voted to uphold the government's broad interpretation of indigenous land rights.

There were no known developments concerning the FUNAI proposal to transfer, and grant compensation by 2010 to, 2,000 families who refused to leave an area inside the indigenous reserve in Sao Felix de Xingu, in the southern part of Para State. There have been conflicts between the families and the Paracana tribe in that area.

In December 2007 the Tupiniquim and Guarani tribes, after invading the Portocel port in Aracruz, Espirito Santo, settled a dispute with the Aracruz Celulose Company concerning approximately 27,000 acres of land claimed as tribal. The settlement accord, mediated by FUNAI and the Ministry of Justice, allowed 600 families to remain on 11,000 acres of land. There was no updated information on the Tembe tribe's claim that ranchers, loggers, and other invaders had devastated more than 80 percent of their land.

In the late 2007 incident allegedly involving illegal miners extracting diamonds from the Roosevelt indigenous reserve in Rondonia State, authorities peacefully removed the miners without confrontation.

In September the Para State Federal Court reinstated monthly payments of 650,000 reais (approximately \$260,000) that the Vale do Rio Doce Company (CVRD) must pay to Xikrin tribal groups, although a CVRD appeal was pending at year's end. FUNAI and the Public Ministry brought the civil case alleging that CVRD had not fulfilled an agreement regarding compensation for mining in areas close to the tribe's habitat.

The National Commission on Indigenous Policies was created in April and met at least three times during the year. Composed of representatives from indigenous tribes, civil society groups, and government entities such as the Office of the Presidency, FUNAI, and the Ministries of Mines and Energy, Agriculture, Environment, Justice, Education, Defense, and Planning, the commission began examining ways to improve government policies, improve the provision of health services to indigenous persons, and incorporate indigenous concerns into the federal government's anticrime plan (the National Program for Public Security with Citizenship).

According to the Ministry of Education, 20 state and federal universities continued to reserve entrance slots for indigenous persons. The number of indigenous university students, almost 5,000 or approximately 1 percent of total university students, remained unchanged.

Other Societal Abuses and Discrimination

State and federal laws prohibit discrimination based on sexual orientation, and the federal and state governments generally enforced these laws.

Between January and September, the NGO Bahia Gay Group received 186 reports of killings in the country based on sexual orientation (122 male homosexuals, 58 transvestites, and six lesbians), an increase from the 116 such reports in all of 2007. The Northeast continued to be the most violent area against homosexuals, with Pernambuco State accounting for 14 percent of the cases reported.

The federal government's national program, "Brazil without Homophobia," was replicated at the local level in Rio de Janeiro. "Rio without Homophobia" was launched in October, providing assistance to the homosexual community through hot lines, professional counseling services, medical assistance, rights defense, and a witness protection program.

There were no reported cases of societal violence or discrimination based on persons with HIV/AIDS during the year.

Section 6 Worker Rights

a. The Right of Association

The law provides for union representation of all workers (except members of the military, the uniformed police, and firefighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the MTE, which accepts the registration unless objections are filed by other unions. Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MTE Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MTE does not register the union. Union organizers may challenge this decision in the labor courts.

The law stipulates certain restrictions, such as "unicidade" (one per city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a given geographical area. Most elements of the labor movement and the International Trade Union Confederation criticized unicidade. While a number of competing unions existed, the MTE and the courts enforced unicidade in decisions regarding the registration of new unions.

In March the government signed into law an act that extends legal recognition to trade union centrals that meet certain requirements regarding membership and regional representation. Such recognition allows qualifying centrals legally to represent workers in courts, public councils, and other bodies.

The Single Central Organization of Workers (CUT) estimated that 20 to 25 percent of workers were unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MTE, fell outside the official union structure; they therefore did not enjoy union representation and usually were unable to exercise their labor rights fully. According to government statistics, the informal sector accounted for approximately 38 percent of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The Catholic Church's Pastoral Land Commission reported that violence in rural areas victimized labor leaders, with most perpetrators enjoying impunity (see section 1.a.).

On August 23, Transport Workers' Union leader Joinville Frota suffered an attempt on his life when his house in Amapa State was set afire, reportedly during a dispute between the union and two transport companies. In a previous attack on the union, its headquarters was also set on fire in April. At year's end no arrests had been made.

The law provides the right to strike to all workers except the armed forces, military police, and firefighters, and workers exercised this right in practice. While the civil police were allowed to form unions and conduct strikes, the military police were prohibited from organizing.

The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable if a number of conditions are not met, such as maintaining essential services during a strike, notifying employers at least 48 hours before the beginning of a walkout, and ending a strike after a labor court decision. Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity, provided that the strike is not ruled abusive. In practice employers fired strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process.

b. The Right to Organize and Bargain Collectively

Collective bargaining was widespread in the formal sector. The law obliges unions to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union.

The law permits the government to reject clauses of collective bargaining agreements that conflict with the orientation of government policy. The ILO Committee of Experts has called for this provision's repeal. Collective bargaining is effectively prohibited in the public sector; the constitution allows it, but only after implementing legislation that has never been passed by Congress. By year's end government-submitted legislation to implement collective bargaining as part of a labor reform package was awaiting congressional consideration.

The law prohibits the dismissal of employees who are candidates for or holders of union leadership positions and requires employers to reinstate workers fired for union activity; however, authorities at times did not effectively enforce laws protecting union members from discrimination. Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome, averaging six years for resolution. Parties generally agreed that when ultimately resolved, cases were decided fairly and on their merits. There was a trend for courts to rule against employees, claiming that union membership was not a factor. Most complaints were resolved in the first hearing; however, the appeals process introduced many delays, and some cases remained unresolved for up to 10 years.

There are no special laws or exemptions from regular labor laws in the country's free trade zones.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, forced labor and trafficking of workers occurred in many states, most commonly in activities such as forest clearing to provide cattle pastureland, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane, coffee, and cotton. Forced labor typically involved young men drawn from the impoverished Northeast states--Maranhao, Piaui, Tocantins, Para, Goias, and Ceara--to work in the northern and central-western regions of the country. Women and children, the latter typically working with their parents, also were involved in forced labor activities such as the production of charcoal. The ILO estimated that there were approximately 25,000 forced labor workers at any given time during the year, with some NGOs estimating the number as high as 100,000 without supporting empirical data. According to the Federal Police, there were 306 investigations into forced labor from January until June.

Labor intermediaries trafficked most forced laborers to remote estates, where victims were forced to work in harsh conditions until they repaid inflated debts related to the costs of travel, tools, clothing, or food. Armed guards sometimes were used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm usually were sufficient to prevent laborers from fleeing.

The law provides that violators of forced or compulsory labor may be sentenced up to eight years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme. The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies. There were few criminal prosecutions relating to forced labor because of the lack of a clear legal definition; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids.

Violators of forced labor laws enjoyed virtual impunity from criminal prosecution, and no landowner has ever been convicted and imprisoned for using slave labor. The MTE punished those who used slave labor by imposing fines, requiring that indemnities be paid to the workers, and placing the names of violators on a "dirty list," which was published every six months on the Internet. The Ministry of National Integration vetoed financing to violators, the Bank of Brazil denied credit to landowners using forced labor, and some sectors of the economy refused to buy products from producers on the list. The Federal Labor Prosecutor's Office participated in inspections by receiving complaints and establishing fines that violators had to pay to receive financing and credit, sell products, have their accounts unfrozen, or obtain access to governmental loans.

In May the MTE released its "dirty list" of 207 employers in 14 states who used their workforce in conditions analogous to slave labor. Some challenged the list's constitutionality, since there is no way to clear oneself before a name is added, but at year's end no decision had been made. The Senate's Human Rights Committee approved a law that prohibits granting credit to persons or companies on the "dirty list."

During the year the MTE's Mobile Inspection Unit freed 5,244 forced laborers in 154 operations on 290 properties. Payments of indemnities to the workers totaled approximately 9 million reais (\$3.6 million).

On September 17, federal labor inspectors, assisted by federal police, highway police, and prosecutors, freed 150 workers, including more than 30 children, found working under forced labor and degrading conditions at a cacao plantation in Placas, Para. The workers had been unable to leave because of debts owed to the employer for food, other basic necessities, and tools required for work. Workers also reported that they were threatened with death if they tried to leave. MTE inspectors estimated that the employer owed workers approximately 1.4 million reais (\$560,000) in back wages. At year's end a federal labor court was determining civil penalties and fines.

At year's end the MTE was deciding penalties to apply in a December 2006 case in which landowners in Goias State were arrested on suspicion of labor abuse and environmental crimes in making charcoal from illegally felled timber from protected areas.

The National Commission to Eradicate Slave Labor coordinated the government's efforts to eliminate forced labor. The MTE's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing victims of forced labor. The mobile unit worked in conjunction with federal police officers, who accompanied labor inspectors on raids to provide protection. Mobile teams levied fines on estate owners using forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin. Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors sometimes faced resistance.

The National Pact for the Eradication of Slave Labor included more than 100 companies and NGOs with a public commitment to restrict economic relations with anyone who uses slave labor. The NGOs Social Observatory Institute, ETHOS Institute, and Reporter Brasil monitored the actions to combat forced labor implemented by those who signed the pact.

d. Prohibition of Child Labor and Minimum Age for Employment

Although child labor is prohibited, it continued to be a widespread problem, particularly in homes and the informal sector. The executive secretary of the National Forum for the Eradication and Prevention of Child Labor (FNPETI) stated in March that the fight against child labor in the country was stagnant.

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or that occurs in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, authorities rarely enforced additional legal restrictions intended to protect working minors under age 18. The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Inspectors may punish violators of child labor laws by drawing up infringement assessments and issuing fines.

Data from the government's Economic Research Institute showed that in 2007 there were 2.5 million children between the ages of five and 15 working in the country's economy, compared with 2.7 million in 2006.

Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys. The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberments, gastrointestinal disease, lacerations, blindness, and burns caused by applying chemical products with inadequate protection. According to an IBGE study, there were 273,000 labor accidents reported involving child labor in 2006.

The MTE was responsible for inspecting worksites to enforce child labor laws; its regional offices had special groups to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Nonetheless, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media. Labor inspectors continued to prioritize inspections in the informal sector, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. The MTE reported that from January to November, inspectors found 5,139 children under 16 working illegally, an approximately 35 percent decrease when compared with 2007. In most cases inspectors reportedly attempted to reach agreements and convince employers to desist from labor law violations before levying fines of 402 reais (approximately \$150) per violation up to a maximum fine of 2,013 reais (\$800); for a second or third violation, the fine doubles or triples respectively. In practice few employers were fined for employing children.

The government implemented programs to prevent child labor, including the Program to Eradicate Child Labor (PETI), coordinated by the Ministry of Social Development and Combating Hunger with state and local authorities. Through PETI, families with children seven to 15 years of age working in selected hazardous activities receive monthly cash stipends to keep their children in school, and the children may participate in after-school programs that provide nutritional snacks, sports, art, and cultural activities. The government, through the Social Development Ministry, expanded the Bolsa Familia program (to provide a monthly stipend to low-income families who keep their children in school and meet certain health requirements) by raising the upper age limit for eligibility from 15 to 17

years.

NGOs supported the government's child labor elimination programs. The Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights to the guardianship councils, the social assistance network, and the organizations that defended children and family rights.

Civil society also took actions to prevent and abolish child labor. The nongovernmental FNPETI, which includes governmental and civil society representatives, mobilized institutional agents involved in developing policies and programs to eliminate child labor. The toy industry's Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. All major labor organizations had programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

e. Acceptable Conditions of Work

The government adjusts the minimum wage annually and in April raised it to 380 reais (approximately \$170) per month. IBGE estimated that approximately 25.6 percent of workers earned the minimum wage or less. The national minimum wage did not provide a decent standard of living for a worker and family.

The law limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also prohibits excessive compulsory overtime and stipulates that hours worked above the weekly limit must be compensated at time-and-a-half pay; these provisions generally were enforced in the formal sector.

The MTE sets occupational, health, and safety standards that are consistent with internationally recognized norms. MTE labor inspectors worked closely with prosecutors from the Federal Labor Prosecutor's Office, an independent agency responsible for prosecuting labor infractions. However, the government devoted insufficient resources for adequate inspection and enforcement of standards.

Unsafe working conditions were prevalent throughout the country. There were no figures available on workplace accidents during the year. According to data from the Ministry of Social Security, the government granted benefits to 11,538 persons for work-related accidents during the year. Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings occurred, and legal recourse usually required years for a resolution. The Federal Prosecutor's Labor Office reported that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions, but workers could express such concerns to a company committee for an immediate investigation.