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## Brazil

### Country Reports on Human Rights Practices - [2005](#)

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Brazil is a constitutional federal republic with a population of approximately 186 million. In 2002 voters elected President Luiz Inacio Lula da Silva ("Lula") of the Workers' Party (PT) to a four-year term in a free and fair election. While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous serious human rights abuses, primarily at the state level.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous, serious abuses, and the record of several state governments was poor. The following human rights problems were reported:

- unlawful killings and killings due to excessive force committed by state police forces (both civil and military)
- police involvement in killings for hire and death squad executions of suspected criminals, persons considered undesirable, indigenous people, and labor activists
- police torture and beating of suspects and detainees
- failure to act in numerous human rights violations by state authorities, which perpetuated a climate of impunity
- harsh and often life-threatening prison conditions
- frequent torture and beatings of prison inmates, including in juvenile detention centers
- failure to ensure the right to a fair and speedy trial
- investigations of human rights abuses by police officials normally limited to internal police reviews and seldom subject to independent review
- overloaded military police tribunals that rarely investigated cases thoroughly, seldom convicted abusers, and allowed impunity for many military and civil police officers
- violence and discrimination against women
- child abuse and prostitution
- trafficking in persons, particularly women and children for the purpose of prostitution and slavery
- failure to protect indigenous people from outsiders who encroached on their lands or to provide them with adequate health care and other basic services in many areas
- societal discrimination and occasional violence against Afro-Brazilians and homosexuals
- persistent intimidation and killings of land reform activists and rural labor union organizers and their agents
- widespread forced and slave labor with virtual impunity for the perpetrators
- widespread child labor

#### RESPECT FOR HUMAN RIGHTS

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

###### a. Arbitrary and Unlawful Deprivation of Life

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

There continued to be a high rate of police killings. Government officials (including the president) acknowledged the continued severity of the problem of unlawful killings by law enforcement officials.

Amnesty International (AI) reported that police killed approximately two thousand persons a year in Rio de Janeiro and Sao Paulo states. The Sao Paulo State Secretariat for Public Security reported that Sao Paulo police (civil and military) killed 264 civilians in the first 9 months of the year compared with 322 civilians killed during the first 8 months of 2004; off-duty policemen were responsible for 23 of the killings. On December 4, in Niteroi, Rio de Janeiro State, military police killed five people in the "Morro do Estado" shantytown; an investigation continued at year's end.

Rio de Janeiro's Security Secretariat reported that state police killed 594 persons during the first 8 months of the year, compared with 983 killings for all of 2004. However, reports from the Center for Studies of Security and Censorship at Candido Mendes University estimated that approximately three thousand people were killed by police in Rio de Janeiro State during the year.

In many cases police officers employed indiscriminate lethal force during apprehensions, killing civilians despite the lack of any danger to themselves. In some of these cases, the civilian's death followed severe harassment and even torture by law enforcement officials (see section 1.c.).

On July 22, civil police killed five persons ages 14 to 22 during an antidrug operation in the Morro do Samba area in Diadema, Sao Paulo City. While a police internal affairs investigation continued, the five suspects remained on duty.

In July 2004 military policeman Marcos Aurelio Epifanio shot and killed university student Fernando Santos Maia da Conceicao in Brasilia. The policeman stated that he had been informed about a gas station robbery and that the suspects reportedly drove a car identical to Maia da Conceicao's. On February 10, the grand jury's prosecutor charged Epifanio with murder, and the trial remained pending at year's end.

Trials remained pending for military policeman Fabio Trevisoli charged with involuntary manslaughter and for three military policemen charged with prevarication and failure to administer first aid in the May 2004 Sao Paulo City supermarket killing of Raimunda Furtado, who was mistaken for a robber. Trevisoli was dismissed from his position.

Unlike the preceding year, there were no reports of extrajudicial killings by police in juvenile detention centers.

The use of torture by police sometimes led to the death of the victims (see section 1.c.). On September 31, union leader Jair Antonio da Costa died after being strangled with a police stick during a demonstration in Sapiranga, Rio Grande do Sul. Major Eduardo Pitam, the operation's commander, and five others were fired; six additional officers were free and awaited trial at year's end.

Some members of the police continued to exploit an overall climate of violence to administer "rough" justice to those whom they consider socially undesirable.

There were numerous allegations of police killings and violence in Sao Paulo City, particularly in the Diadema and Sapopemba area. On July 4, Tereza Rodrigues Faria and her sons Eduardo and Fabio were shot and killed in front of their house in the Jardim Portinari neighborhood in Diadema. In late August authorities charged military police third sergeant Ricardo Silva dos Santos with three counts of homicide for killing Francisca and her two sons and three counts of attempted homicide for shooting and injuring Francisca's husband and two other children. Five other police officers were accused of involvement in or failure to stop the crime. The case was pending at year's end.

On November 7, the Ministry of Justice rejected formal charges brought by the public prosecutor against five military police and one private security guard in the August 2004 killing of seven homeless persons in Sao Paulo. According to the Sao Paulo ombudsman, the judge reasoned that there was no strong evidence linking the accused to the crime. The accused have retained their positions.

Three military police were convicted in the 2004 street killing of an Afro-Brazilian dentist in Sao Paulo. Two were convicted of homicide and sentenced to 17½ years in prison; the third officer received a sentence of 7½ years' imprisonment for illegal possession of firearms.

No further information was available regarding the police internal affairs investigation into the involvement of 13 military police arrested for the 2003 killing of William Douglas Santos and Fabricio Francisco da Conceicao in Campinas, Sao Paulo State.

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 (see section 1.e.)

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. The National Human Rights Secretary stated that death squads operated in 15 states. Credible, locally-based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered "undesirable"--such as street children--in almost all states and the Federal District.

On March 31, a military police death squad invaded two suburbs in the Baixada Fluminense neighborhood near Rio de Janeiro City, and killed 29 persons in drive-by shootings to retaliate against the "Dagger in the Flesh" operation, a government initiative to eliminate extrajudicial killings and corrupt police practices. Charges against two officers arrested on April 3 were dismissed; the investigation of the remaining nine continued at year's end.

On July 16, 6 military police, 2 former policemen, and 3 lawyers were among 32 persons arrested in Curitiba, Parana State. Those arrested were accused of forming a death squad that killed 30 persons, including police commander Pedro Plochanski, in January.

On July 30, four youths were killed in separate municipalities of the greater Rio de Janeiro City of Baixada Fluminense. Two of the victims, 9-year-old Leonardo Andre de Tulio and his 12-year-old brother Claudio Andre de Tulio, were found dead in Duque de Caxias. The burned bodies of a third brother, 19-year-old Carlos Alberto Ferreira de Paula, and a family acquaintance, 16-year-old Davi dos Santos Matias, were later discovered in Xerem. Compelling evidence suggested that a Baixada Fluminense military police death squad committed the killings. Investigators were also looking into a possible link between these killings and the killing of Matias' sister, allegedly by local drug traffickers, two weeks earlier. The cases remained under investigation at year's end.

There was no information on the civil and military police internal affairs investigations initiated in May 2004 into cases of death squad activity in Guarulhos and Riberao Preto, both large cities in Sao Paulo State.

The 2003 military police internal affairs investigation into the existence of a police death squad that allegedly targeted and killed troublemaking youths in Guarulhos, Sao Paulo State, continued. The case involving charges against 2 military policemen and 2 private security guards, indictments of 11 other policemen, and investigations of an additional 27 for killing 3 adolescents in 2003 was closed due to a lack of evidence.

No additional information was available regarding the Sao Paulo State civil police internal affairs office investigation of former civil policemen Thiago Ferreira da Silva Moreira and Ricardo Jose Guimaraes for the 2003 death of Thiago Xavier Stefani and their participation in a Ribeirao Preto death squad linked to 30 other deaths. Moreira, who was in prison for a separate crime, was released in May 2004, his trial remains pending. Guimaraes, who was convicted for killing one person, escaped from the state police detention center in June and remained at large. There was no further information regarding the internal affairs investigation of four other civil policemen in the case.

There were new developments in the 2003 killings in Bahia and Paraiba states of two witnesses, purported to have information about death squads, who were killed shortly after meeting with the visiting UN special rapporteur on summary executions. In the 2003 killing of Flavio Manoel da Silva in Paraiba State, authorities arrested prison agent Lucival de Moraes Lima and private security agent Claudio Roberto Borges. In December 2004 a grand jury declared Lima innocent due to a lack of evidence. Borges' trial was postponed, and no developments have been reported. Two military police officers who were also accused of participating in the death squad that killed Bispo were arrested, but no further developments were reported in their cases.

There were numerous killings of indigenous people, mostly related to land disputes (see section 5), and of rural activists and labor union organizers (see section 6.a.). AI and other credible sources indicated that these killings often occurred either with the participation, knowledge, or acquiescence of state law enforcement officials. On April 5, federal police arrested former military police lieutenant colonel Wasdir Coppetti Neves and five other military police officers for creating a paramilitary group to target landless rural workers in Parana State. On June 9, legal proceedings began in federal court against 19 persons suspected of being involved with the paramilitary group.

In December the Pastoral Land Commission (CPT) reported that 37 rural workers were killed from January to November. From January to August, 27 rural workers were victims of attempted killings, 114 received death threats, 2 were reportedly tortured, 52 were physically assaulted, 114 were imprisoned, and 80 were wounded in 794 land conflicts involving 615,560 people.

The Ombudsman's Office of the Ministry of Agrarian Development reported 66 rural killings (12 as a direct result of land conflict, 34 not directly caused by land conflict, and 20 still under investigation) between January 1 and October 30.

On February 12, local gunmen shot and killed Catholic nun Dorothy Mae Stang in Anapu, Para State. Stang had received a number of death threats in recent years and met with federal authorities to complain about recent threats against her and her colleagues during the week of her death. Stang worked with landless peasants and supported efforts of the government's National Institute for Colonization and Agrarian Reform to place the landless on unused and underutilized land. After an investigation, the state civil police recommended indictments against five suspects, who were arrested and awaited trial. In June the government announced that the suspects would be tried at the state, not federal, level despite requests from Stang's family and the prosecutor general that the case be federalized due to possible corruption in Para State's judicial process. Three suspects appealed to the Para State Court of Justice and won't be tried until the appeal is considered. Two others were convicted and sentenced on December 9: Rayfran das Neves Sales was sentenced to 27 years and Clodoaldo Carlos Batista to 17 years in prison.

On February 23, 61-year-old environmentalist Dionisio Julio Ribeiro Junior was killed where he worked at the Rio de Janeiro State "Tingua" biological reserve, near Rio de Janeiro City. Tingua Reserve and Brazilian Environmental Agency (IBAMA) employees received death threats previously, but local authorities took no action. In March federal police arrested Leonardo de Carvalho Marques after receiving an anonymous tip on a police hot line. Leonardo confessed to the crime but did not convince public security authorities that he had acted alone. Some allegedly corrupt IBAMA employees were also under investigation in the case.

On July 25, Catholic priest Paulo Henrique Keler Machado was shot to death in Nova Iguacu, near Rio de Janeiro City. While local police detectives believed that the killing was the result of an armed robbery, church officials believed that Machado was killed due to his support of the investigation of the 29 people killed in the Baixada Fluminense massacre. The case remained under investigation at year's end.

On March 4, authorities arrested 11 military police in Natal, Rio Grande do Norte State, on suspicion of involvement in at least 26 killings while participating in an extermination group over a 3-year period. Eleven other military policemen were detained on suspicion of collusion.

The investigation continued in the 2004 killing of a Landless Rural Workers' Movement (MST) activist in Parana State.

In September two police officers were convicted and sentenced to 25 years in prison for the 2003 murder in Vitoria, Espirito Santo State, of a judge who had been investigating organized crime and human rights abuses among police officials.

In September state courts received testimony in the 2003 killings of four MST members in Foz do Jordao, Parana State. The accused were awaiting trial at year's end. There were no known developments in the 2003 killing of a rural workers' association leader in Tamandare, Pernambuco State.

In June a judge in a lower-instance court in Campinas, Sao Paulo State, summoned witnesses in the case of the antiskidnapping police investigator accused of the 2002 killing of Jorge Jose Martins, and the trial remained pending at year's end.

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities. Six of the 10 suspects in the January 2004 killing of 4 labor ministry inspectors in Unai, Minas Gerais State, remained in jail pending trial. The two

men suspected of ordering the killing were not arrested; one of them was elected mayor of Unai. The inspectors were investigating slave labor practices at local farms.

There were killings by vigilante groups who invaded prisons. On July 18, a mob invaded a jail in Igarape-Acu, Para State, and beat to death a 17-year-old accused of killing a local merchant; 50 military police from a neighboring municipality were dispatched to Igarape-Acu to restore peace and to protect two others suspected of killings. On July 23, a mob shot, lynched, and nearly quartered a man suspected of attempting to rape a woman in Belo Horizonte, Minas Gerais. On August 15, a 50-person mob invaded a jail in Gandu, Bahia State, and beat to death Carlos Eduardo do Nascimento and Lucas Medeiros de Souza who were being held for suspected killings; only one of the mob members had been detained by year's end.

AI reported that criminal gangs and drug factions controlled some *favelas* (shantytowns), particularly in the city of Rio de Janeiro, through intimidation and violence. Lynching was common, especially against those accused of rape or other crimes that go unpunished in these communities due to the absence of police agents.

#### b. Disappearance

While there were no reports of politically motivated disappearances, uniformed and civil police involvement in extortion and kidnappings for ransom was widespread. On August 8, Rio de Janeiro State authorities arrested civil policeman Adamo Ricardo Fernandes for kidnapping a doctor from Resende, Rio de Janeiro. The doctor was kept in the policeman's house in the neighboring city of Volta Redonda. Investigations into four other alleged kidnappings involving Fernandes continued at year's end. In December drug traffickers from the shantytown Parada de Lucas wearing police uniforms, invaded the shantytown Vigario Geral, kidnapped, tortured, and killed eight young people (15 to 24 years of age). One resident told police that police provided support for the drug traffickers. The case was under investigation at year's end.

No further information was available regarding the November 2004 case in which police arrested military policeman Anderson Goncalves Viana and his brother-in-law as suspects in the robbery of a building during which the occupants were held hostage.

There were no known developments regarding the case of two Sao Paulo civil policemen from the antiskidnapping division and a military policeman who were charged with kidnapping for ransom two narcotics traffickers.

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

Although the law prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem.

from January through September, the Sao Paulo State Police Ombudsman's Office received 17 complaints of torture. The nongovernmental organization (NGO) Christian Association for the Abolition of Torture estimated that it had received complaints of 650 cases of torture in the Sao Paulo State prison system from the end of 2002 until mid-year, approximately 60 of which were received from January to September. The NGO Christian Association for the Abolition of Torture estimated that it received approximately 25 complaints of torture in the Sao Paulo prison system during the year. Common torture methods included open-handed blows, beatings with wood or other objects, and collective punishment.

The Center for the Defense of Human Rights in Matto Grosso do Sul State received 36 reports of torture during the first 6 months of the year; one case resulted in a conviction. The center stated that many victims did not report incidents of torture for fear of reprisal.

On June 14, authorities sentenced two civil police officers to 8 years and 5 years 4 months in prison, respectively, for beating and torturing a 15-year-old boy in Xinguara, Para State, in 1999. The convicted officers remained free pending their appeal, despite fears that those involved in obtaining the conviction of the two officers were at risk of reprisals and intimidation.

During the year the National Movement for Human Rights together with the Chamber of Deputies' Human Rights Commission reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions; it reported an average of 150 cases per month. Most reports came from remote cities in the interior where low-ranking police were in charge.

The state public prosecutor for children and youth (responsible for defending the rights of incarcerated youth) was involved in 26 ongoing investigations into torture and mistreatment claims in Sao Paulo's juvenile detention system (FEBEM). According to the public prosecutor, there were 19 ongoing criminal cases against 220 former or current FEBEM employees who were accused of torture.

On January 11, FEBEM Vila Maria employees reportedly beat and tortured inmates. On January 13, 16 FEBEM employees were arrested and provisionally imprisoned, while 7 evaded arrest; 55 were indicted on charges of torture, failure to prevent torture, and related charges. Sao Paulo State authorities continued their investigation at year's end.

In June Federal District Attorney General Rogerio Schiatti presented an analysis of 711 complaints of torture received by the National Torture SOS hot line between 2001 and 2003. The analysis classified 62 of the complaints as torture, of which 45 percent occurred in prisons, 33 percent in jails, and 22 percent in public areas. In 73 percent of the cases, torture had been used as a "punitive or preventive" measure. In the Federal District, beating was the method of torture in 72 percent of the cases, but psychological intimidation, food deprivation, water torture, and electrical shocks also occurred.

Federal, state, and military police often enjoyed impunity in cases of torture, as in other cases of abuse (see section 1.e.)

The 2004 case of five individuals who alleged that military police officers in Sao Bernardo do Campo, Sao Paulo, regularly tortured them over a period of 112 days remained pending at year's end. According to the NGO Christian Association for the Abolition of Torture, the four policemen charged in the case were released, pending the trial's outcome.

No new information was available regarding the criminal investigation into the public prosecutor's charges that in July 2004 FEBEM's Raposo Tavares unit 27 tortured youthful inmates by burning them with fireworks. The unit director was dismissed in November.

In July Delegado Marco Tulio Fadel, accused of detaining and torturing adults and adolescents in 2003 at the Igarape police station in Belo Horizonte, Minas Gerais State, was sentenced to 16 years' imprisonment.

In some cases, sexual orientation or gender identity might have played a role in cases of torture and cruel treatment (see section 5). NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

While an internal civil investigation absolved five civil Anti-Kidnapping Unit policemen on charges of torturing three individuals in the Sapopemba neighborhood of Sao Paulo City in 2003; a trial on those charges against four policemen and a police clerk remained pending at year's end.

#### Prison and Detention Center Conditions

Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. Prison riots were frequent and often violent. Discipline was difficult to maintain under such conditions, and prison officials often resorted to brutal treatment, 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 (see section 1.a.). In November two brothers were killed during a rebellion at Rubens Quintella prison in Maceio State, one by decapitation. The riot was sparked by prisoner complaints of penitentiary overcrowding and the slow pace of judicial processes. The poor working conditions and low pay for prison guards also encouraged widespread corruption. Poor record keeping resulted in the detention of many inmates beyond their sentences.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in states with the largest prison populations, such as Rio de Janeiro and Sao Paulo. According to the Ministry of Justice, at year's end there were 342,388 prisoners in a system designed to hold 211,255. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding. According to the administrative director of the Sao Paulo State Secretary Administration, 45 percent of the state's prisons were overcrowded. The Pinheiros Women's Facility in Sao Paulo City held 1,261 detainees in a building designed to hold 512. Overcrowding was also endemic in prisons in the Northeast.

Prisoners were subjected to unhealthy medical and sanitary conditions. Scabies and tuberculosis, HIV/AIDS, and hepatitis, were widespread in Sao Paulo State prisons. According to local NGOs, infectious diseases, such as AIDS and tuberculosis, reached endemic levels among prisoners. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent; infected prisoners were eligible to receive antiretroviral cocktails. The Ministry of Health reported the frequent incidence of skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis among the general prison population of Sao Paulo State. The Catholic Church's Ministry for the Incarcerated in Sao Paulo reported that in several of the city's police jails, most detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the Sao Paulo penitentiary system became infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

Overcrowding remained a problem in police jails and penitentiaries. Sao Paulo State has closed many of its jails in recent years, and many incoming detainees were held in new "Provisional Detention Centers" (CPDs) administered by the Sao Paulo State penitentiary system rather than by the Secretariat for State Security. Women were more likely than men to remain in facilities after sentencing due to severe space shortages in women's prisons. The NGO Christian Association for the Abolition of Torture reported that the deactivation of local jails led to increased overcrowding in the prisons and CPDs, particularly in provincial cities and towns in Sao Paulo State. The NGO reported problems of overcrowding, lack of medical care, lack of work and educational opportunities, and prisoner abuse in all types of detention facilities.

An authoritative source stated that between 6,500 and 7,000 individuals were held in pre-sentencing facilities. The Interstate Police Prison (POLINTER), a pre-sentencing facility in the Gamboa Port Zone in Rio de Janeiro City, with a design capacity of 500 held an estimated 1,500 detainees. Approximately 120 convicted detainees remained at POLINTER awaiting transfer to prison. After an unannounced visit to POLINTER on May 25, federal deputies Geraldo Moreira and Alessandro Molon prepared and presented to the State Commission on Human Rights a report, *Monster Factory*, which detailed living conditions in POLINTER.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture continued to pervade Sao Paulo's FEBEM juvenile detention centers. During the year a series of simultaneous rebellions and revolts occurred in various FEBEM units in Sao Paulo City. An inmate died and several were injured during a rebellion at the Tatuape unit on January 13. Then-FEBEM president Alexandre de Moraes suspected that the rebellion was provoked by guards in retaliation for the arrest of their colleagues. On March 11, Tatuape inmates escaped from the complex. An inmate died in November following a fall from a roof during a November 22 riot at the Tatuape complex. The riot resulted in injuries to 55 persons (24 inmates and 31 employees). The Sao Paulo FEBEM system had more than six thousand inmates and accounted for more than half of the country's youth prison population. By law, detention facilities such as FEBEM must separate inmates over age 18 from minors, but not all units did so. Females and males were held in separate FEBEM units.

There were no further developments on actions taken by the police investigations department in response to the public prosecutor's 2004 investigation regarding allegations of torture at FEBEM's Tatuape unit.

There were no known developments in the pending July 2004 case in which the human rights NGO Conectas won a suit against the Tatuape facility for not complying with municipal building codes and FEBEM for a suspension of the court order to bring the unit up to municipal fire and construction codes.

In December 2004 Human Rights Watch (HRW) issued a report that documented abuses and poor health and sanitary conditions in juvenile detention centers in Rio de Janeiro State. HRW found that, in most cases, the abusers were juvenile detention center guards who rarely were punished. No juvenile detention center guard in Rio de Janeiro State has ever faced criminal charges for abusive conduct. After Socio-Educational Action (DEGASE) Director for Rio de Janeiro State Sergio Novo disputed the report's findings, HRW returned to Rio de Janeiro's juvenile detention centers and released an additional report in June. While some facilities had been repaired, HRW found that physical and mental abuse continued and that living conditions in some of the centers had worsened. The DEGASE system held 2,300 adolescents and youth in 30 different centers.

The Center for Specialized Treatment of Juveniles (CAJE) in Brasilia, Federal District, from 390,180 held 294 youths in a facility designed to hold 196 and employed 17 guards. The staff included two doctors, a nurse, a psychiatrist, 13 psychologists, 46 social assistants, and some teachers. Of the total number of detainees, 11 were females held in separate living quarters. Local critics reported understaffing, violence, and unsatisfactory treatment of inmates with mental disabilities at CAJE.

During the first six months of the year, more than one thousand detainees escaped from various FEBEM units. On March 10, 307 inmates escaped from the Tatuape unit in Sao Paulo City. On May 10, FEBEM fired 11 of the 15 Tatuape directors. The former state secretary for justice and FEBEM President Alexandre de Moraes reportedly stated that directors were not capable of maintaining order. Currently 1,139 FEBEM employees are undergoing administrative review under suspicion of mal-treatment and aggression against inmates. Since 2003, 154 employees have been dismissed for these reasons.

By November FEBEM had recorded 34 prisoner rebellions for the year, compared with 28 for all of 2004. Two correction officers were taken hostage during a riot at the Tatuape detention center, the 16th rebellion to occur at Tatuape during the year. On March 10, 307 inmates escaped from the center. On May 4, 40 employees and 10 inmates were injured in a rebellion. On June 16, 11 inmates violently attacked a fellow inmate. Other units in the FEBEM system also recorded episodes of violence and disorder throughout the year. On March 11, a female employee was raped and another was sexually assaulted at the Franco da Rocha center. On May 30, 15 inmates escaped from the Vila Maria center. On November 22, a violent rebellion at FEBEM's Tatuape unit injured 31 employees and 23 inmates and killed 1 inmate.

Sao Paulo Governor Geraldo Alckmin replaced FEBEM presidents after rebellions, riots, escapes, torture accusations, and mistreatment occurred in the FEBEM system. During the first nine months of the year, court orders and administrative decisions resulted in the dismissal of a number of prison directors and managers. In September the director of FEBEM's Vila Maria complex was dismissed. The Raposo Tavares FEBEM unit director was dismissed in November after an investigation into events that occurred in July. In December the Inter-American Court of Human Rights ordered the adoption of eight protective emergency measures for inmates in Sao Paulo State FEBEM unit. Ordered measures included reducing overcrowding and punishing employees responsible for torture.

Prisons generally did not provide adequate protection against violence inflicted by other inmates. Numerous prison riots and rebellions occurred during the year, many of which left inmates injured or dead. The Sao Paulo State secretary for prison administration reported 40 criminal deaths in the state penitentiary system from January to September, compared with 29 for all of 2004.

On July 6, a 16-year-old boy was stabbed to death by three cell mates at CAJE, which a CAJE spokesman described as a "settling of accounts" following a disagreement among detainees; the victim had received repeated death threats and was transferred to a new cell the day before he was killed.

In April FEBEM intern Cleber Nogueira da Silva died after being transferred to the Tupi Paulista prison in Sao Paulo State. NGOs stated that Nogueira da Silva, who tested positive for AIDS, had not received medical care.

In January 2004, 21-year-old student Romulo Batista de Mello died after a beating while in police custody in Rio de Janeiro State. The state prosecutor's case of torture against three police officers and a case of negligence against a doctor remained under investigation at year's end.

In response to an April 2004 Inter-American Court of Human Rights order that it bring conditions at the Urso Branco prison in Rondonia State to international standards, the government submitted 11 reports to the court, which the court deemed insufficient. (The court's order followed an April 2004 riot in which 14 inmates died; Urso Branco, with a capacity of 350 prisoners, held approximately 1,300 prisoners at the time of the riot.) The court deemed the implemented measures insufficient, and the case remained under consideration.

On June 12, Celso da Silva Alves was found beaten and hanged in a cell at the POLINTER prison facility in Rio de Janeiro City. On May 21 and May 23, at the same prison, fellow inmates killed Raurivnio Alves de Oliveira and Ramiro Rodrigues Garcia Filho. Alves was held with 81 other prisoners in a cell designed for 30. Harsh conditions in POLINTER, such as severe overcrowding, contributed to the rising trend of violence.

On June 14, prisoners revolted at the Zwinglo Ferreira Maximum Security Prison in Sao Paulo State. Members of the First Command of the Capital gang overpowered guards and took 14 of them hostage, invaded protected cells, and executed 5 members of other gangs. Officials negotiated an end to the conflict the following day. There were large-scale prisoner transfers after the riot.

Investigations into the January 2004 killing of two inmates of FEBEM's Vila Maria unit who were shot and killed while trying to escape were closed due to conflicting testimony. Civil proceedings against the state by the victims' families continued at year's end.

Rio de Janeiro and Sao Paulo states provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers served in women's prisons, and abuse and extortion of sexual favors occurred. The administrative director for the secretary of prison administration for Sao Paulo City reported that approximately five percent of prison guards in women's prisons were men. In only two Rio de Janeiro State police districts were women held in gender-segregated, short-term jail facilities.

In March 2004 the Association of Judges for Democracy reported that in Sao Paulo State prisons, incarcerated women had fewer rights than men. Women's institutions tended to be more overcrowded than men's and received less attention from prison administrators. Approximately 65 percent of female prisoners were held in severely overcrowded conditions and did not have jobs, education, and health care as required by law. On September 7, inmates at the women's prison facility in Butana, Sao Paulo State, staged a two-day revolt, which included hostage taking. The inmates complained of humiliating personal searches during a facility-wide inspection that preceded the rebellion. As a result, authorities removed the facility's security director.

Juveniles sometimes were held together with younger adults (ages 18 to 21). In March 400 FEBEM detainees were transferred to the adult prison facility at Tupi Paulista in Sao Paulo State; by year's end, the detainees had returned to FEBEM-run facilities.

While authorities attempted to hold pretrial detainees separately from convicted prisoners, overcrowding often required holding convicted criminals in pretrial detention facilities.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Ministry of Justice officials offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. Global Justice reported that the level of access to prison facilities varied from state to state. In Sao Paulo and Rio de Janeiro states, Global Justice found it difficult to gain access. Sao Paulo State also employed committees of community leaders to monitor prison conditions. The Catholic Church's ministry for the incarcerated in Sao Paulo reported occasional difficulties in entering prisons. Sao Paulo State, like Parana and Rio Grande do Sul states, also had a prison ombudsman program. According to a former state ombudsman, the prison system was understaffed, and the investigators of complaints were often the accused perpetrators.

The government generally granted various organizations and advocacy groups unrestricted access to FEBEM facilities, although the NGO Association of Mothers and Friends of at-Risk Children and Youth (AMAR) reported difficulties gaining immediate access to facilities. For instance, on September 16, FEBEM prevented an AMAR visit to verify allegations of prisoner abuse on the grounds that Sao Paulo State internal investigations and Legal Medical Institute staff were doing so.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

The federal police force, 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 the uniformed officers charged with maintaining order. The January 2004 report of the UN special rapporteur on summary executions found that, although each state police force was monitored by its own internal affairs division, the units--subordinated to the chain of command and bound by ties of esprit de corps--often delayed applying administrative sanctions. This situation undermined efforts to address police abuses and contributed to a climate of impunity. Although the individual state governments control their respective military police forces, the constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (see section 1.e.).

On July 22, authorities arrested 7 military policemen for sexually corrupting a 16-year-old girl at the Vila das Mercês Military Base in Sao Paulo City and placed them under administrative arrest. The victim's 17-year-old cousin stated that she received death threats after giving testimony at the internal affairs unit of the Military Police.

The Rio de Janeiro State secretary for public security's "Operation Knife in the Flesh" aimed at investigating and arresting policemen involved in illegal activities was carried out with the military and civil police. Under the operation, the state arrested 551 police officers and discharged 103 between February and August. The federal police have conducted similar operations that resulted in the arrest of policemen, judges and other authorities involved with some kind of illegal activities.

#### Arrest and Detention

With the exception of arrests of suspects caught in the act, 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 the arrest or before being taken into custody for interrogation.

Although warrants generally were based on sufficient evidence and issued by a judge, the NGOs National Movement for Human Rights and Global Justice reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. Global Justice also reported that, in Rio de Janeiro and Sao Paulo states, public and NGOs pressures caused many judges to stop issuing "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

The 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 5 days under specified conditions during a police investigation, but a judge could extend this period. There were cases when detainees--typically poor and uneducated--were held longer than the provisional period. In August, Enilson Pereira Soares was detained six days without being informed of the charge after being caught shoplifting in the Federal District. Pereira's public defender never appeared.

In criminal cases defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period could 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, and if indigent, to one 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 June, the Sao Paulo State ombudsman's office, received 23 complaints of extortion, typically by civil police.

There were no reports of political detainees.

In March Marcos da Silva was awarded approximately \$870 thousand (2 million reais) for having been confined 13 years in a Pernambuco State prison without having committed a crime. Da Silva was mistakenly arrested twice. In 1976 he was wrongly accused and convicted of homicide. After serving six years in prison, da Silva was exonerated and released after the actual killer was identified. In 1985 police arrested da Silva for violating parole; he then spent another 13 years in prison, without a trial, until a new prison director found out there were no real charges against him. During that time, he lost his sight due to an anti-riot bomb released by the police.

The Ministry of Justice reported that nationwide 106,798 of the 342,388 detainees in prisons and jails awaited sentencing during the year. An additional 57,588 were detained in jails. The law provides for a maximum number of days for pretrial detention, but the period was usually extended because of individual circumstances. In Pernambuco State, 9,124 of 13,651 detainees awaited sentencing.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences, particularly at the state level, a situation that occasioned vigilante action (see section 1.a.). 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 from the date of the crime, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard. This practice reportedly encouraged corrupt judges to delay certain cases so that they eventually could be dismissed, although there were no reports of this during the year.

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

#### Trial Procedures

After an arrest, the chief judicial officer 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 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 (see section 1.a.).

The law recognizes the competence of a jury to hear cases involving capital crimes. Judges try those accused of lesser crimes.

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 had to provide a public defender or private attorney at public expense. In his February report, UN Special Rapporteur on the Independence of Judges and Lawyers Leandro Despouy stated that, "notwithstanding the enormous amount of work" performed by the federal and state public defenders, they were "unable to meet all needs." Three states, including Sao Paulo State, do not have an office of public defender; they employ private attorneys who do not have the same guarantees of autonomy and independence as the public

defenders.

Defendants have the right to confront and question witnesses. Defendants enjoy a presumption of innocence. Defendants have the right to appeal to state superior courts and to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal Superior Justice Court. At the appellate level, a large case backlog hindered the courts' ability to ensure fair and expeditious trials. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

UN Special Rapporteur Despouy cited a judges' association study that found public perceptions of the judiciary as "a mysterious black box impenetrable for the ordinary person"; delays in the system of justice and difficulties for the poor or marginalized in gaining access to the justice system caused this perception.

There continued to be numerous credible reports of state police officials' involvement in intimidation and killing of witnesses involved in testifying against police officials (see section 1.a.).

The NGO National Movement for Human Rights noted in 2004 that courts convicted a much higher percentage of Afro-Brazilian than white defendants (see section 5).

The law mandates that special police courts exercise jurisdiction over state uniformed (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 the civilian courts received very few case referrals involving police killings. The special police courts are separate from the courts-martial of the armed forces, except for the final appeals court. There were few convictions in these courts. Police were reluctant to investigate fellow officers. UN Special Rapporteur Despouy noted that "familiarity and esprit de corps may lead to impunity."

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (see section 1.e.). The police themselves were often responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases of torture and lesser charges to expire due to statutes of limitations (see section 1.e.).

#### Political Prisoners

There were no reports of political prisoners, although the MST claimed that its members jailed in connection with land disputes were political prisoners.

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

The law prohibits such actions, but there were reports that the police conducted searches without a warrant. NGOs and human rights groups, such as AI, reported frequent incidents of violent police invasions in *favelas* and poor neighborhoods. During these operations the police stopped and questioned persons and searched cars, residences, and business establishments without a warrant. 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.

### 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 and did not restrict academic freedom.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting. Privately owned newspapers practiced isolated cases of censorship, often in areas with influential vested reasons and usually for political reasons.

Criminal and other elements, such as political party activists, subjected journalists to violence, sometimes specifically because of their professional activities. According to the NGO Journalists Without Borders, one local journalist was killed during the year. On July 1, investigative journalist Jose Cândido Amorim Pinto was ambushed and shot about 20 times in Carpina, Pernambuco state. For the past 19 years, Amorim had produced and presented an investigative program in which he reported on local corruption cases. On June 21, Unified Workers' Socialist Party members attacked and injured a Globo network television crew during a report in front of local political party's headquarters Sao Paulo. The assailants were fired the next day.

The police investigation of the July 2004 killing of radio owner and host Jorge Lourenco in Ipanema, Alagoas State, remained pending at year's end.

Ten persons, including ex-mayor Eurico Mariano, were accused of killing radio host Samuel Roman outside his home in Coronel Sapucaia, Mato Grosso do State in 2004; Mariano was later arrested in Paraguay, while the other nine suspects evaded arrest or were killed.

In October courts convicted seven persons of the torture and killing of prominent Rio de Janeiro television journalist Tim Lopes in 2002. Six defendants were sentenced to prison terms ranging from 23 to 28 years, and one was sentenced to 9 years' imprisonment.

On June 30, Genivaldo Ferreira Nogueira, an ex-councilman of Mage, in the Baixada Fluminense region of Rio de Janeiro, was absolved of the accusation of ordering the 2001 killing of newspaper reporter Mario Coelho de Almeida Filho.

There were generally no government restrictions on the Internet. On July 4, however, the Repression and Analysis of Intolerance Crime Group, a special police force, arrested Reginaldo de Lima of Sao Paulo City, who operated a Web site devoted to Nazism, on charges of being sympathetic to Nazism. Lima, who maintained that he was a historical collector and that his website was geared towards academic research, was charged with radical prejudice, charges that carry a penalty of two to five years' imprisonment. A trial was pending at year's end.

#### 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 law provides for freedom of religion, and the government generally respected this right in practice. The government required missionary groups to seek permission from the National Indian Foundation (FUNAI) for entry into indigenous lands.

#### Societal Abuses and Discrimination

There were approximately 101 thousand members of the Jewish community of whom an estimated 45 thousand lived in Rio de Janeiro City, 29 thousand in Sao Paulo City; there were smaller communities in Porto Alegre, Bahia, Belem, and Manaus.

There were reports of anti-Semitic incidents during the year. In October the University of Berlin's Anti-Semitism Research Center reported that there were anti-Semitic groups in Sao Paulo and Porto Alegre. The center added that, as of October, 25 people had been denounced for some kind of anti-Semitic activity, most of them university students arrested for verbal and physical aggression against Jews. In October authorities in Curitiba, Parana State, arrested 13 members of a neo-Nazi group on charges of attempted murder. At year's end the members of the group were under preventive detention in Curitiba.

On May 8, three Jewish students were attacked in Porto Alegre, Rio Grande do Sul State; 14 persons were charged with assault or failure to prevent the attack. The case was pending at year's end.

The investigation in the October 2004 defacing of the Congregation Beth Jacob synagogue in Campinas, Sao Paulo State, was closed during the year due to a lack of evidence.

There was no further information regarding six law students at Rio de Janeiro Catholic University who were under local, state, and federal investigation for spraying anti-Semitic graffiti in a university bathroom in February 2004.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

#### .d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them in practice, although there were restrictions on entry into protected indigenous areas.

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

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 *refoulement*, the return of persons to a country where they feared persecution. The government granted refugee status or asylum and resettled 66 refugees during the year; refugee status was granted to approximately 35 percent of those who applied.

The government also 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 and other humanitarian organizations in assisting refugees and asylum seekers.

### 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 2002 national elections, PT candidate Luiz Inacio Lula da Silva won election to a 4-year-term with more than 61 percent of the vote in the second-round runoff.

Women enjoyed full political rights. There were 10 women in the 81-member Senate and 45 women in the 513-seat Chamber of Deputies. There were four women in the cabinet and one on the Supreme Court.

There were 25 Afro-Brazilians among the 594 members of Congress. There were three members of minorities in the cabinet and one on the Federal Supreme Court.

#### Government Corruption and Transparency

Ethics and ethical behavior among public figures became a major issue during the year. The NGO Transparency International's index indicated a serious level of perceived corruption.

Corruption scandals involving alleged kickbacks and abuse of power at the Postal Service and the Brazilian Reinsurance Institute affected the government during the year. Dozens of government officials, including several key cabinet members, resigned or were removed; three congressional inquiry committees opened investigations; and 12 federal deputies awaited trial by the Chamber of Deputies. President Lula spoke publicly against corruption in government.

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 usually were cooperative and responsive to their views. Although federal and state officials in many cases sought the aid and cooperation of 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 members of the state police forces. On September 21, AI reported death threats against Antonio Fernandez Saenz, a lawyer who provided legal assistance to socially deprived inhabitants of Sao Bernardo do Campo, Sao Paulo State. According to AI, military police threatened Saenz and his family and also broke into his office and stole documents which allegedly incriminated civil and military police in human rights violations.

While eight states had police ombudsmen (see section 1.c.), some NGOs and human rights observers questioned their independence and effectiveness. The ombudsmen's accomplishments varied dramatically, depending on such factors as funding and outside political pressure.

#### 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 people continued.

##### Women

Although the law prohibits domestic violence, no provision specifically addresses violence against women and spousal abuse. During the year, the Senate approved legislation to address all forms of violence against women and to define penalties for the offense. Domestic violence remained both widespread and underreported; UN Special Rapporteur Despouy noted a tendency to blame the victims of these offenses. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended inconclusively. According to a survey conducted by the World Society for Victims and used by the Senate in its 2004 Report on the Condition of Women, 23 percent of women were subjected to domestic violence; in approximately 70 percent of the cases, the aggressor was the victim's husband or companion; 40 percent of the cases resulted in serious injuries, but only 2 percent of the complaints resulted in punishment of the aggressor.

The government acted to combat violence against women. Each state secretariat for public security operated women's stations (*delegacias da mulher*) to address crimes against women, but the quality of services provided varied widely, and availability was particularly limited in isolated areas. The stations provided the follow services to domestic violence victims: psychological counseling, temporary shelter, hospital treatment for rape victims (including treatment for HIV and other sexually transmitted diseases), and assistance in initiating criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, many of the women's stations fell far short of standards. The NGO Global Justice commented that the women's station program promoted public awareness of crimes against women but lacked strategies to protect victims after reports were filed.

The city of Rio de Janeiro, through its Favela-Bairro (Slum-Neighborhood) program, offered temporary housing to women and children who were victims of sex-related crimes.

The government continued to operate a toll-free hot line to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically. On November 25, the Secretariat for Women's Affairs established a nationwide hot line to assist female victims of violence. The Institute Patricia Galvao launched the "where violence exists, everyone loses" campaign which focused on men and aimed to prevent violence against women. In addition the Secretariat for Women's Affairs launched the "Your life begins when violence ends" campaign to encourage women to report violence, denounce their aggressors, and prevent future violence. Both campaigns were broadcast on television and radio, and published in newspapers and magazines.

Rape, including spousal rape, is a crime punishable by 8 to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial. The law allows a convicted rapist to escape punishment if he marries his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings.

While adult prostitution is legal, various associated activities, such as operating a brothel, are illegal. There are no specific laws addressing sex tourism, but the crime is punishable under other criminal types, such as pedophilia and corruption of minors. Also, the government released a "code of conduct to combat sex tourism and sexual exploitation" and conducted campaigns in the most affected areas. Authorities in the city of Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the year. Rio de Janeiro State passed a law requiring certain businesses to display signs listing the penalties for having intercourse with a minor. 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 (see section 5, Trafficking).

Sexual harassment is a criminal offense, punishable by up to two years in jail. 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 legislation exists and was enforced, accusations of remained rare, and the extent of the problem was not documented.

Women enjoy the same legal rights as men. A cabinet-level office, the Secretariat for Women's Affairs, oversees a special secretariat that has responsibility to ensure 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. Surveys during the year indicated that women on average earned between 30 to 40 percent less than men. While a federal government quota system requires that at least 20 percent of new federal government hires be women, UN Special Rapporteur Despouy noted a strikingly low level of women's representation in the judicial system, where women occupied "only five percent of the top posts in the judiciary and the Public Prosecutor's Office."

The law provides 120 days of paid maternity leave to women and 7 days 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 for employers of up to 2 years, while the company may be fined 10 times the salary of its highest-paid employee.

NGOs active in combating economic discrimination included: the Feminist Center for Studies and Assistance (which focused on combating gender and racial discrimination by conducting studies and promoting advocacy activities to influence public policy affecting women) and the Institute Patricia Galvao (which informed the public about women's rights and violence against women).

## 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 law provides that children age 6 and under receive free day-care and preschool. Schooling was free and compulsory between the ages of 7 and 14 and free, but not compulsory, for adolescents between the ages of 15 and 17 who did not attend primary school. Schooling was available in all parts of the country, although not every school had space for every child who wanted to attend. In 2002 the government's statistics agency (IBGE) reported a 97 percent school enrollment rate for children ages 7 to 14, although only 11 percent of children were completing 8 years of primary school by age 15. Girls and boys attended school in comparable numbers, although a UN Children's Fund (UNICEF) report indicated that a higher percentage of boys than of girls were not in school.

While it recorded generally high vaccination and immunization rates for one-year-olds, UNICEF noted that the child mortality rate (at 29 per 1,000 live births) remained "disproportional to national production capacity and available technology." According to HRW, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities.

While the law prohibits subjecting any child or adolescent to any form of negligence or abuse, such abuse was a major problem. According to the Special Secretariat for Human Rights' Infancy and Adolescence Information System (SIPIA) report noted that over the 6-year period ending in April, most of the 361 thousand abuse complaints in 12 states were filed against parents. SIPIA reported that physical and psychological aggression was also a major problem with more than 29 thousand complaints recorded in this category. Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively. In February UN Special Rapporteur Despouy reported "a strong sense of impunity for crimes against children and young persons," mainly in the areas of death squad killings and sexual exploitation and abuse.

Between January and May, there were 258 cases of sexual abuse cases involving minors in Pernambuco State. According to the National Secretariat for Human Rights, other states recorded the following number of reports of sexual abuse during the year: Sao Paulo 1,648; Rio de Janeiro 1,497; Rio Grande do Sul 1,362; Minas Gerais 1,147.

On July 7, the Federal Police "Guardian Angel" division arrested Anderson Luis Juliano Borges Costa in Volta Redonda, Rio de Janeiro State, for pedophilia and child pornography. Costa was accused of sexually abusing more than 20 children and awaited trial at year's end.

No additional information was available regarding the Rio Grande do Sul case against 14 military policemen charged with sexually abusing minors in 2001 and 2003. The NGO National Movement for Justice and Human Rights reported that the accused policemen remained on the police force.

The legal minimum age for marriage of men and women is 18; those under the age of 16 can marry with parental consent. Underage marriage was not a significant problem.

Trafficking in children for the purpose of prostitution was a serious problem (see section 5, Trafficking).

Child labor remained a problem (see section 6.d.).

A July study by the Institute of Applied Economic Policy (IPEA) reported that more than 100 thousand children and adolescents were living in public shelters. The leading causes for displaced children were: poverty (24 percent), abandonment (19 percent), domestic violence (12 percent), and drug abuse by parents or guardians (11 percent). The IPEA report also revealed that in more than half of the cases, children were living in shelters due to the parent's belief that the child would receive better care there than at home.

In September the NGO Travessia reported that approximately 350 children lived on Sao Paulo City streets, and an additional three to four thousand children worked as street vendors.

The city of Rio de Janeiro operated 38 shelters and group homes for street children. The Sao Paulo City government runs several programs for street children, including a number of shelters for minors and the Sentinel Program, which identifies at-risk youth and provides social services, counseling, and shelter.

#### Trafficking in Persons

Although the law criminalizes all forms of trafficking, persons were trafficked from, within, and, to a lesser extent, to the country.

The law establishes a penalty of up to 8 years' imprisonment for transporting persons in or out of the country for the purposes of prostitution; sentences may be increased if the victim is under 18, a senior citizen, pregnant, a person with disabilities, or a member of an indigenous group. 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 the authorities grant prior approval. Laws on trafficking for sexual exploitation were difficult to enforce, particularly in relation to domestic trafficking. The law does not specifically prohibit trafficking of men or the internal trafficking of women, although legislation was pending to criminalize all forms of trafficking.

Violators of antitrafficking laws rarely received criminal penalties because of the limitations of the statutes. Although complete data was not available, officials estimated that 50 to 100 labor trafficking defendants were prosecuted in 2003, however, many of those proceedings had not reached conclusion by year's end. According to the International Labor Organization (ILO), only 68 cases of trafficking of women for prostitution have been brought to the attention of federal authorities over the past 3 years. During the last quarter of the year, however, the country had its first three convictions that included prison sentences for persons trafficking women abroad, one in Goiania and two in Fortaleza. Prison sentences ranged from 8 to 30 years. These cases received widespread media attention.

The Federal Police in Goiania conducted numerous operations to break trafficking groups, such as the August "Operation Babylon," which resulted in the arrest of six people. On November 23, the Federal Police intercepted two trafficking victims at the international airport of Belo Horizonte, Minas Gerais, on their way to Spain. After talking to the victims, the police arrested Andrea Lucia Godoy Rosa, accused of being the head of the trafficking scheme in Belo Horizonte. In addition, on November 29, the Sao Paulo State civil police, together with the Federal Highway Police and the State Public Prosecutor's Office of Sao Paulo, launched "Operation America" to curb trafficking of workers to Mexico and the United States. The operation resulted in the arrest of 30 people involved in the scheme. None of the cases had been judged by year's end.

There was no new information regarding the case of 12 persons charged in October 2004 with participating in a sex trafficking ring in Fortaleza, Ceara State.

The Federal District court case against the former speaker of the Federal District's legislative chamber, Benicio Tavares, on charges of forced prostitution and sexual exploitation of minors remained pending at year's end.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the Federal Police), the Special Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance. The Federal Highway Police were responsible for checking documents and monitoring movement along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers; antitrafficking offices in Sao Paulo, Rio de Janeiro, Ceara, and Goias states monitored domestic and international trafficking.

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 also kept victims from seeking police

intervention or from testifying against traffickers. As a result, few trials involving traffickers resulted in convictions.

The country assisted with investigations of trafficking in Spain, Portugal, Italy, Sweden, Mexico, and the United States.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs estimated that 75 thousand women and girls, many of them trafficked, were engaged in prostitution in neighboring South American countries, the United States, and Western Europe. Women were trafficked from all parts of the country. The government reported that trafficking routes existed in all states and the Federal District. Young women and girls were trafficked overseas for prostitution, while young men and boys were trafficked internally as slave laborers.

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 (see section 6.c.). Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops. Labor recruiters generally recruited laborers from small municipalities in the North and Northeast and transported the recruits long distances to ranches and plantations in remote areas in the central part of the country. Most internally trafficked slave laborers originated from Maranhao and Piaui states, while Para and Matto Grosso states received the highest number of internally trafficked slave laborers.

According to the 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 trafficked them outside the country. The Ministry of Tourism found that 398 of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500 thousand children were involved in prostitution.

Officials were occasionally involved in trafficking. In July 2004 the Joint Parliamentary Investigation Commission (CPMI) denounced a number of mayors, vice-mayors, judges, city council members, and a governor who were involved in the sexual exploitation of minors and prostitution rings. A rape and pandering charge against former Goias mayor Boadyr Veloso was dismissed after he arranged the marriages of the seven girls he exploited. None of those cited in the CPMI report have been prosecuted; some cases remained under investigation and others were dismissed due to a lack of evidence.

In February Senator Joao Ribeiro was convicted and fined \$281 thousand (730 thousand reais) for forcing workers to work and live in slave-like conditions. His appeal remained pending at year's end.

CECRIA's 2003 report on trafficking in persons for commercial sexual exploitation, which drew on police, media, and other sources, identified 241 sex trafficking routes. Internationally, Spain was the destination of most identified routes (32), followed by the Netherlands (11), Venezuela (10), Italy (9), Portugal (8), and Paraguay (7). The study also named France, Switzerland, Germany, Argentina, Chile, Japan, Israel, and the United States as destinations for trafficking victims. The report identified the cities of Rio de Janeiro, Sao Paulo, Belem, Fortaleza, Salvador, and Recife as exit points for persons trafficked to Europe. Rio de Janeiro and Sao Paulo were exit points for the United States, while victims destined for Argentina, Chile, and Paraguay passed through the city of Foz do Iguacu.

Domestic routes included: from Goias State to Sao Paulo and Rio de Janeiro; from rural areas in the North and Northeast to coastal cities for sexual tourism; and from small towns in the north to outposts in the Amazon region, which itinerant workers often transited. CECRIA's report also identified trafficking routes of children for sexual exploitation from the southern region of the country into Argentina and Paraguay. Domestically, trafficked agricultural workers were most often used in isolated areas of the Amazon region in the northern part of the country; many of the most serious cases occurred in the State of Para. The report also called attention to sex trafficking in areas with major development projects.

CECRIA found that the 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 who fell prey to 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, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

In January the Special Secretariat for Human Rights, in conjunction with the University of Brasilia and UNICEF, published the *Inter-sectoral Matrix to Combat Sexual Exploitation of Children and Adolescents*. The matrix found that approximately 930 of 5,563 municipalities had an active sexual exploitation market. The matrix also found that most commercial sexual exploitation took place in the Northeast and in Pernambuco State and that 66 cities were involved in prostitution, trafficking, pornography, and sexual tourism. Of the 930 municipalities with an active sexual exploitation market, the matrix found that 292 were located in the Northeast, 241 in the Southwest, 161 in the South, 127 in the Central-west, and 109 in the North.

Police officials believed that some women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they 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 the victims.

Internal trafficking supplied forced labor primarily from urban to rural areas for agricultural work and for sex tourism. 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 such major tourist destinations as Rio de Janeiro and Fortaleza, Ceara.

Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

There was no evidence of any institutional government complicity in the trafficking, nor was there any known evidence of individual state-level law enforcement officers engaging in, encouraging, or abetting trafficking. In July 2004 the Sexual Exploitation Parliamentary Inquiry Committee reported that police and other authorities facilitated, either actively or by omission, the trafficking of women and children near the Venezuela, Suriname, Bolivia, and the French Guyana borders.

Several government programs assisted victims of trafficking, although efforts often were inconsistent and under-funded. The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. NGOs provided victim assistance in job training, counseling, and other community reintegration assistance. The Office of the Comprehensive Program for the Prevention of and the Fight Against Trafficking in Persons operated seven centers to provide assistance to victims of both domestic and international trafficking. Locally based NGOs assisted trafficking victims with retraining and counseling activities.

While trafficking victims were not treated as criminals, access to support services was limited due to a lack of government support. No statistics were available concerning the number of victims in shelters. Police usually referred victims to centers for treatment and counseling.

The government maintained a witness protection program overseen by the Office of Legal Assistance for Grassroots Organizations, an NGO working in coordination with government authorities. Although the program operated in all states, lack of resources limited its effectiveness.

The National Human Rights Secretariat 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.

In February the Ministry of Tourism launched a three-phase anti-sex tourism campaign in the Northeast and Rio de Janeiro State during carnival season when sex tourism is common. During carnival, the ministry distributed pamphlets and other informational materials in coastal cities and also educated tourism industry employees, such as hotel and restaurant owners and taxi drivers, about the dangers of sex tourism. City authorities in Rio de Janeiro launched campaigns against sex tourism and arrested several persons involved in promoting prostitution during the carnival season.

Labor organizations and NGOs continued to conduct prevention campaigns. The CPT distributed pamphlets to rural workers in areas that historically served as targets for traffickers. The pamphlets warned rural workers about the methods of traffickers and offered practical advice to avoid this situation. A number of local unions instructed laborers to register with them and the police before leaving with a labor recruiter.

#### 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 the law has provisions to ensure access to buildings for persons with disabilities, states do not have programs to enforce these provisions effectively.

The National Council for the Rights of Handicapped Persons and the National Council for the Rights of the Elderly, both within the Special Secretariat for Human Rights, had primary responsibility for promoting the rights of persons with disabilities.

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, bathrooms, ramps, elevators, and signs for persons with disabilities. Nonetheless, persons with disabilities in Sao Paulo State had difficulty in securing necessary accommodations.

There were 237 psychiatric hospitals with more than 48 thousand patients in the country. A 2004 inspection by the Federal Council of Psychiatry and the Brazilian Bar Association of the country's psychiatric hospitals in 14 states and the Federal District concluded that psychiatric patients received inadequate medical care, which was exacerbated by the lack of inspection procedures. On July 4, police raided an unlicensed facility for mentally disabled persons in Sao Jose dos Campos, Sao Paulo State. The facility housed 40 persons, 20 of whom were present during the raid. Police found malnourished and sick victims with signs of physical abuse. Patients complained of poor treatment, including detention in small and unventilated rooms, little food, and inadequate medical attention. A female patient reported that she had been abused sexually by one of the owners, Roberto Augusto de Oliveira. Owner Sirlene Aparecida de Oliveira was indicted for mistreatment and was released pending trial. Robert Oliveira and his wife Margarida fled.

#### National/Racial/Ethnic Minorities

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

The law specifically prohibits, among other practices, 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 were significantly and pervasively underrepresented in professional positions and in the middle and upper classes, experiencing a higher rate of unemployment and earning an average wage approximately half that of a white person. The UN special rapporteur on the judiciary noted that persons of African descent occupied less than 1 percent of the senior posts in the judiciary and the Public Prosecutor's Office.

There was also a sizeable racial education gap. According to the education ministry, Afro-Brazilians received an average of 5.3 years of schooling compared with 7.1 years for whites. Afro-Brazilians constituted 16 percent of the university population. Major public universities in the states of Sao Paulo, Rio de Janeiro, Parana, Mato Grosso, Bahia, and the Federal District of Brasilia maintained affirmative action programs; for instance, the University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color.

On April 13, an Argentine soccer player was arrested for using racial slurs during a match in Sao Paulo; he was charged with qualified injury, aggravated by racism, and was detained two days and fined \$3 thousand (8,400 reais). It was the first time that authorities had invoked the law for conduct during a sporting event.

In June a student newspaper at the University of Sao Paulo published racially insensitive comments about Afro-Brazilians with references to slavery. Editors of the newspaper retracted the comments after students and school officials protested.

During the week of July 18, a court ruled in favor of an Afro-Brazilian man who claimed racial discrimination for his firing by the Copacabana Palace Hotel in Rio de Janeiro City in 2003. The court awarded \$65 thousand (150 thousand reais) in damages.

### 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; however, in practice, the government did not secure these rights.

The country had an indigenous population of approximately 400 thousand persons belonging to 215 "nations." The government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts. The FUNAI reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions and illegal mining and extraction activities on indigenous lands. Road construction and deforestation were also threats.

Indigenous leaders and activists complained that indigenous people 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.

During the year Indigenous TV began nationwide broadcasts to disseminate information about indigenous life and culture. The station received support from the Raoni Foundation, the NGO Planetary Union, the Ministry of Culture, and various international institutions.

AI published a report in March that criticized the government's lack of a clear indigenous policy and assessed living conditions among the indigenous population. AI found that indigenous people continued to be victims of attacks, killings and other forms of discrimination. The report noted that the government's failure to demarcate indigenous territories and the slow demarcation process contributed to violence, racial discrimination, and other human rights abuses. AI also reported that reservations and other indigenous communities were plagued with malnutrition, poor health care, violence, and suicide.

From January to mid-May, 21 indigenous children died of malnutrition and associated conditions in Mato Grosso do Sul State. FUNAI attributed the deaths to the indigenous people's poor access to land for growing crops and isolation from the outside economy. In response to the crisis, FUNASA accredited three nearby hospitals to treat indigenous patients, and the government provided additional funds to local hospitals serving the local indigenous population. On May 25, after an on-site investigation at the indigenous reserve of Dourados in the state of Mato Grosso do Sul, a government commission issued a report with 52 health-related recommendations to various government entities.

A FUNASA study released during the year reported that indigenous communities in Acre, Mato Grosso, and Para states had infant mortality indices of 115, 134, and 102 per thousand, respectively, compared with a national rate of approximately 33 per thousand. The study cited a lack of access to arable land and poor sanitation as the leading contributors to infant death.

The 1988 constitution charged the federal government with demarcating indigenous areas within 5 years. The complete process includes four phases: identification, declaration, approval, and registration. By year's end at least 326 of the 583 recognized indigenous areas had reached the final registration stage, 159 were in one of the four phases of the registration process, and 98 had yet to be processed. The demarcation of 11 indigenous lands in Mato Grosso do Sul State remained disputed at year's end. Identified indigenous territory constituted 12.5 percent of the national territory.

The law provides indigenous people with the exclusive beneficial use of the soil, waters, and minerals on indigenous lands but only if the Congress approves each case. The government administered the lands but was obliged to consider the views of the affected communities regarding their development or use, and communities have the right to "participate" in the benefits gained from such use.

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

Disputes between indigenous and nonindigenous people occasionally erupted into violence. Most conflicts concerned land ownership or resource exploitation rights in which some indigenous people resorted to forceful occupation, hostage taking, and killing.

Land invasions by indigenous groups continued and sometimes resulted in violence and killings. On July 26, Dorival Benites of the Guarani-Kaiowa tribe was killed during a conflict when he and 200 other tribe members entered the Sao Benedito farm near Sete Quedas in Mato Grosso do Sul State; 4 other tribe members were injured. The group claimed that the farm was on indigenous land. On July 1, Guarani-Kaiowa tribal members attempted to invade the Cristal farm near Dourados, Mato Grosso do Sul State, and briefly held two FUNAI mediators hostage.

On August 7, approximately 20 members of the Apiaca tribe in northern Mato Grosso State attacked a lodge and held 10 hostages. Indigenous people claimed that they gained the land through demarcation, while the title owner, who was injured in the attack, believed that he retained legal ownership.

On April 15, President Lula signed a decree to demarcate the Raposa Serra do Sol Indigenous Territory, a 4.2 million acre reservation in Roraima State that was home to approximately 16 thousand indigenous people from 164 different indigenous groups.

On July 20, Truka tribal leader Edilene Bacerra Pajeu presented a report to UN Special Rapporteur Philip Alston on the killings of 18 indigenous persons during the first 7 months of the year, including details regarding the deaths and imprisonment of Truka Indians in Pernambuco State. On July 27, the Federal Supreme Court president issued an injunction suspending the ratification process of the Nande Ru Marangatu indigenous reserve in Mato Grosso do Sul State, which was home to 1,115 Guarani-Kaiowa Indians. The decision was under appeal at year's end. Indigenous people from the reserve complained of constant threats from cattlemen. On December 15, Federal Police forcibly moved 400 members of the tribe to an area of the Nade Ru Marangatu reserve that was too small to accommodate the group. As a result, many built temporary shelters on the side of roadways.

On December 24, Dorvalino Rocha, a member of the Guarani-Kaiowa tribe, was shot to death on a ranch near Antonio Joao, Mato Grosso do Sul State. On December 27, private security guard Joao Carlos Gimenes was indicted for the crime, and the trial was pending at year's end.

On August 4, the long-delayed trial of military police officer Rossini Jose de Moura, charged with the 1996 killing of Shanenawa Indian Raimundo Silvino, resulted in an acquittal by the jury, which accepted Moura's claim of self defense. The NGO Indigenous Missionary Council reported that witnesses saw Moura's defense lawyers dining in public with the judge and a member of the jury after the trial.

In 2003 only 1,300 indigenous students of the approximately 400 thousand indigenous population attended college. Some universities, such as the University of Brasilia (UNB), maintained affirmative action programs for indigenous people; however, only 15 of UNB's 21,500 students were indigenous.

#### Other Societal Abuses and Discrimination

There was a history of societal violence against homosexuals. State and federal laws prohibit discrimination based on sexual orientation, and the federal and state governments generally enforced these laws.

The Bahian Gay Group reported that 63 homosexuals were killed between January and July, compared with 158 for all of 2004.

The Secretariat of State Security in Rio de Janeiro State in partnership with NGOs, operated a hot line and offered professional counseling services to victims of antihomosexual crimes.

Pursuant to a July 27 federal court ruling, same-sex partners in a "stable union" are eligible to receive the same benefits as heterosexual couples.

On June 15, the Minas Gerais Court of Justice ruled in favor of a girl whose private school enrollment was revoked in 2003 based upon her mother's HIV status; the young girl was not HIV positive. The court awarded the mother and daughter \$1,500 (3,500 reais) in moral damages.

#### 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 Ministry of Labor and Employment (MLE), 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 MLE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MLE 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 Confederation of Free Trade Unions criticized *unicidade*. While a number of competing unions existed, the MLE and the courts enforced *unicidade* in decisions regarding the registration of new unions.

Approximately 16 percent of the work force was unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MLE, fell outside the official union structure; they therefore did not enjoy union representation and usually were unable to exercise fully their labor rights. The informal sector accounted for approximately one-half 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 CPT reported that violence in rural areas victimized labor leaders, with the perpetrators enjoying relative impunity (see section 1.a.). The CPT reported that 10 rural labor leaders were killed during the year and 84 received death threats.

Although 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, 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. There were approximately 1.4 million complaints registered in labor courts during the year. Parties generally agreed that, when ultimately resolved, cases were decided fairly and on their merits. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for 5 to 10 years. Unlike the preceding year, the trial backlog rose during the year.

#### 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 provides workers (except for the military, military police, and firefighters) with the right to strike, 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 by law 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 did fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (see section 6.a.).

There are no special laws or exemptions from regular labor laws in the country's four 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 (see section 5), most commonly in activities such as: forest clearing, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane, coffee, and cotton. Forced labor typically involved young men drawn from the impoverished northeast to work in the north and central west of the country, but women and children, typically working with their parents, also were engaged in activities such as charcoal production.

Labor inspectors also found immigrants working in conditions of forced labor in Sao Paulo State. In April Sao Paulo City launched an investigation of the labor conditions of the estimated 60 thousand illegal Bolivian immigrants working in the city. According to the Catholic-based NGO Migrant Pastoral Catholic, many of these workers were compelled to work approximately six months to pay "coyote" smuggling fees. There was no additional information pertaining to the investigation's results at year's end. Government officials indicated that Korean and Chinese laborers also were exploited in urban sweatshops under conditions that possibly involved fraud or coercion.

On September 2, authorities arrested 3 truck drivers near Londrina, Parana State, for trafficking 44 Bolivians into the country. On September 6, authorities arrested a Korean businessman in the city of Sao Paulo for forcing 12 Bolivians to work in a sweatshop. The Bolivians worked from 7 a.m. to 10 p.m. and lived, slept, and worked in the same room. The workers rented the machines they used and received approximately 40 cents for each garment they produced.

The ILO's annual report on forced labor estimated that there were 25 thousand slave laborers in the country, concentrated mainly in the states of Para and Mato Grosso. Although forced labor continued to be a serious problem, the ILO commended the government for a number of measures it took to eliminate it.

Labor intermediaries (*gatos*) trafficked most forced laborers to the remote estates where they worked. At the worksite, laborers 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 CPT reported that fleeing workers were killed or beaten to intimidate others at the worksite. On May 8, Rio Grande do Sul State police arrested Reginaldo Batista, who worked as a foreman in a farm owned by businessman Luiz Carlos Berti, in the municipality of Sao Francisco de Paula, where 34 rural workers, including 4 minors, were kept in conditions similar to slavery. According to the local police chief, the foreman used a rifle to threaten the workers. Dire poverty, low levels of education, and a lack of awareness about their rights contributed to workers' vulnerability to forced labor schemes.

The law provides that violators of forced or compulsory labor laws 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.

The law also allows the government, after compensating the landowner, to seize lands on which forced labor has been found and to distribute the property in the government's land reform program.

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. Since violators of forced labor laws enjoyed virtual impunity from criminal prosecution, the government used fines and other disincentives to penalize violators. The government withholds credit to farms using forced labor. In January the labor ministry identified 65 additional employers who subjected workers to slave labor conditions, bringing to 166 the number of employers so sanctioned since the 2003 inception of the "blacklist."

The Executive Group to Combat Forced Labor coordinated the government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing workers trapped in forced labor. The mobile unit worked in conjunction with federal police officers, who sometimes 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.

In February the attorney general's labor office uncovered slave labor conditions in the construction of the Forum of Cabo Frio, a building that is part of the judicial system in a town north of Rio de Janeiro City. Seventy workers reportedly were brought from Bahia and Sao Paulo states to labor 15 hours a day, 7 days a week. The workers' housing lacked ventilation and potable water and had only one bathroom. The construction company held the laborers' work permits to prevent them from fleeing. Judicial proceedings against the two construction companies were pending at year's end.

According to the Ministry of Labor's Mobile Inspection Group, the government released 1,547 slave laborers during the year. On June 3, labor inspectors released 34 forced workers on a farm near Salvador, Bahia State. On June 14, labor inspectors released approximately 1,200 forced laborers at the Gameleira Distillery in Mato Grosso State. The distillery's owner, Eduardo Queiroz Monteiro, was fined \$630 thousand (1.45 million reais) in back-pay and was ordered to arrange relocations for the slave laborers.

On May 19, 75 companies, 11 labor federations, and 13 civil society organizations signed an agreement with the labor ministry committing to ensure that their suppliers were not involved in slave labor. There were no reports on compliance. From January to November, the task force liberated 3,524 forced laborers in 163 different locations compared with 2,887 in all of 2004.

The 2004 case against Senator Joao Ribeiro in Para State for having 38 forced laborers on his farm remained pending at year's end.

Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors sometimes faced resistance (see section 1.a.).

#### d. Prohibition of Child Labor and Minimum Age for Employment

Although the law restricts work that may be performed by children, child labor continued to be a widespread problem.

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 from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the 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. Nonetheless, in 2004 the IBGE estimated that there were 5.1 million child laborers between the ages of 5 and 17. 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.

A report of the Institute for Work and Society Studies identified 69 main rural and urban activities in which children worked. Common rural activities included: harvesting corn, manioc, and other crops; fishing; mining; raising livestock; and producing charcoal. In urban areas children worked in shoe shining, domestic services, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (see section 5). 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 dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying pesticides with inadequate protection.

The MLE 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. In most cases, inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$143 (400 reais) per violation. As a result, few employers were fined for employing children.

MLE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT)--an independent agency responsible for prosecuting labor infractions--which had broader powers and was able to impose larger fines. The MPT has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting.

The Ministry of Social Development coordinated the government's Program for the Eradication of Child Labor (PETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only four hours, PETI emphasized complementary educational activities for children during non-school hours as an alternative to working. Approximately 569 thousand children benefited from this program, which contributed to a 50 percent decline in child labor since 1995 to an estimated 2.7 million persons in 2003.

To prevent child labor and promote education, the government also continued to promote its family stipend program (*Bolsa Familia*), which provides approximately \$6 to \$40 (15 to 95 reais) monthly to low-income rural and urban families for each child (up to a total of three children per family) between the ages of 6 and 15 whose school attendance rate was 85 percent. Municipal governments had primary responsibility for day-to-day management of the program. At year's end the program provided stipends to over 8.7 million families in more than 5,560 municipalities. In addition to the federal program, an estimated 100 municipal governments operated stipend programs.

In June the Federal District local government released a report noting that, in mid-2004, approximately 786 child laborers worked in Brasilia. These minors, most of whom were primary school-age boys, were engaged in activities ranging from domestic labor to work in land dumps. According to the report, 90 percent of the child laborers attempted to balance their work with school, while 7 percent reported that they no longer attended classes.

NGOs supported the government's child labor elimination programs. For example, the National Forum for the Prevention and Eradication of Child Labor, with chapters in every state and more than 40 institutional members from the government and private sector, promoted debate and broad analysis of national child labor prevention efforts. In addition the Centers for the Defense of Children and Adolescents were active in many parts of the country and reported violations of children's rights. The Pro-Child Institute, in Sao Paulo State, coordinated a labeling program to reduce instances of child labor in the footwear industry.

The ILO's Program on the Elimination of Child Labor focused on capacity building, awareness raising, research, income generating schemes, and monitoring systems in child labor prevention programs. The ILO also coordinated a program to reduce sexual exploitation of children and child labor in domestic services (see section 5).

UNICEF supported programs to remove children from exploitative work situations and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

The private sector also played a role in fighting 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. The foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. All major labor centrals implemented 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 national minimum wage did not provide a decent standard of living for a worker and family. The government adjusts the minimum wage annually and in May raised it from approximately \$125 to \$130 (from 288 reais to 300 reais) per month. The IBGE estimated that approximately one in three workers earned the minimum wage or less.

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.

Although the Ministry of Labor sets occupational, health, and safety standards that are consistent with internationally recognized norms, the government devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. During 2004 workplace accidents increased to 458,956 (from 390,180 in 2003), and deaths from accidents increased to 2,801 (from 2,582 in 2003). 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. Such firings did occur, however, and legal recourse usually required years

for a resolution. The MPT reported that numerous firms used computerized records to compile "blacklists" 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.

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