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U.S. Department of State

Brazil Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the federal district. The federal legislative and judicial branches of government exercise authority independent of the executive branch. In 1994 voters elected a new president, two-thirds of the Senate, and 513 federal deputies. It was the second time since the end of military rule in 1985 that citizens freely chose their president and elected the legislative bodies in accordance with the 1988 Constitution. All parties are able to compete on the basis of fair and equal procedures. Fernando Henrique Cardoso became president on January 1, 1995, and is serving a 4-year term, reduced from 5 years by a 1994 constitutional amendment. The judiciary is independent but inefficient and subject to political influence.

Police forces fall primarily under the control of the states. State police are divided into two forces: The civil police, who have an investigative role, and the uniformed police, known locally as the "military police," who are responsible for maintaining public order. Although the individual state governments control the uniformed police, the Constitution provides that they can be called into active military service in the event of an emergency, and they maintain some residual military privileges, including a separate judicial system. In September the Justice Ministry created a public security secretariat to coordinate efforts to reorganize and modernize the police forces. The federal police force is very small and plays little role in maintaining internal security. The state police forces committed numerous serious human rights abuses.

Brazil has a market-based, diversified economy. The Government, which traditionally played a dominant role in shaping economic development, is encouraging greater private sector participation in

the economy through privatization of state enterprises, deregulation, and removal of impediments to competition. Industrial production, including mining operations and a large and diversified capital goods sector, accounts for approximately 34 percent of gross domestic product (GDP); agriculture contributes about 13 percent. Brazil exports both manufactured and primary goods. Among the principal exports are coffee, soybeans, textiles, leather, metallurgical products, and transportation equipment. Per capita GDP was about \$5,000 in 1997, and the economy grew at a rate of 3.5 percent. Although income distribution improved slightly in 1997, the poorest tenth of the population received only 1 percent of national income while the richest tenth received 48 percent.

The Government generally respected the human rights of its citizens, but numerous serious abuses continued. State police forces committed many extrajudicial killings, and officials reportedly tortured prisoners. The police also were responsible for abductions for ransom and instances of arbitrary detention. The state governments concerned did not effectively punish perpetrators of these abuses. In many cases, special courts for the uniformed police were overloaded, rarely investigated effectively or brought fellow officers to trial, and seldom convicted abusers. This separate system of special state police courts contributes to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Legislation enacted in 1996 gave civil courts jurisdiction over intentional homicide committed by uniformed police officers, but left control of the initial inquiry in the hands of the police, which can preempt investigation and prosecution of cases.

The poor bear the brunt of most violence. Prison conditions range from poor to harsh. The judiciary has a large case backlog and is often unable to ensure the right to a fair trial. Justice is slow and often unreliable, especially in rural areas where some powerful landowners use violence to settle land disputes and influence the local judiciary. Violence against women, minorities, and homosexuals, and discrimination against women and minorities are problems. Child prostitution is also a problem. Despite constitutional provisions safeguarding the rights of indigenous people, they continue to be victimized by outsiders who encroach on Indian lands and to be neglected by governmental authorities. The authorities do not adequately enforce laws against forced labor, including that by children. Child labor is a serious problem.

In April the Government created a human rights secretariat in the Justice Ministry to oversee implementation of its 1996 Action Plan to address human rights abuses. The Government also passed a law defining and penalizing torture and expanded scholarship programs to reduce child labor. However, because of jurisdictional and resource limitations, the increased commitment by the national Government did not have a significant impact in some of the states where human rights violations are most common.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Extrajudicial killings continued to be a serious problem throughout the country. In urban areas, high crime rates, failure to apprehend most criminals, and an inept and inefficient criminal justice system all contribute to public acquiescence in police brutality and killings of criminal suspects. Human rights groups report that the uniformed police, who openly doubt the judiciary's ability to convict those they apprehend, often summarily execute suspected criminals rather than apprehend them, and then file false reports describing the executions as shootouts. A Human Rights Watch/Americas report described the unjustified use of deadly force in police raids in urban shantytowns; extrajudicial killings, justified in

official reports under "resisting arrest;" and executions by off-duty officers in response to minor provocations or to resolve personal vendettas. Failure to investigate, prosecute, and punish police officers who commit such acts creates a sense of impunity that encourages continued human rights abuses. The need for police reform was brought to the forefront by widely publicized incidents of police involvement in criminal activity and police strikes in at least 15 states, which drew attention to their low pay and inadequate training.

A 1996 law giving civil courts jurisdiction over intentional homicide committed by uniformed police officers was used in some high-profile cases. However, in most less prominent cases, the decision whether a policeman acted in self-defense or committed an intentional homicide is based on an investigation performed by the police force itself; almost without exception, the police investigators conclude that suspects were "resisting arrest." All crimes less serious than murder committed by uniformed police officers against civilians remain in the military justice system. According to one leading newspaper, a majority of criminal cases involving police in the state of Rio de Janeiro were never tried in court. Of 1,472 cases against police that were sent to the military court between January 1996 and July 1997, 68 percent were "retired" without a court hearing. Cases were retired for insufficient evidence and lack of knowledge of the author of crime. Cases were also retired in which police killed or wounded civilians while the latter were resisting arrest.

The number of citizens killed in conflicts with police fell in Sao Paulo but continued to rise in Rio de Janeiro. A study by the Institute for Religious Studies (ISER) concluded that 10 percent of all Rio de Janeiro homicides were civilians killed by police. The ISER study also documented that in a sample of 697 cases of fatal police shootings between 1993 and 1996, Rio de Janeiro police officers rarely fired to immobilize rather than kill; half of the victims were killed with four or more bullets, and the majority of victims were shot in either the shoulders or the head. Forty cases clearly demonstrated execution-style deaths, where victims were first immobilized and then shot at close range. Victims were generally young, black, and without criminal records. Human rights groups continued to criticize "bravery" awards conferred by the Rio de Janeiro authorities which have had the effect of encouraging police to use excessive force.

In a report released on December 8, the Inter-American Commission on Human Rights (IACHR) stated that the police forces require widespread reform to curb repeated instances of violence and other abuses. The report said that the number of deaths in Rio de Janeiro attributed to state police officers averaged 20 a month in 1996, which it termed an "alarming phenomenon." It said that one battalion that covers slum areas was responsible for one-third of the deaths. The IACHR also said that the number of deaths in civilian confrontations with the state police was three times the number injured by them, a reversal of normal patterns. The IACHR said "this is evidence of the use of excessive force and even shows a pattern of extrajudicial executions by the Rio de Janeiro