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1999 Country Reports on Human Rights Practices

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BRAZIL

Brazil is a constitutional federal republic composed of 26 states and the Federal District. The federal legislative branch exercises authority independent of the executive branch. In 1998 voters reelected President Fernando Henrique Cardoso to a second 4-year term. The 1998 elections marked the third 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. The judiciary is independent but inefficient and subject to political and economic influence.

In June the Government passed legislation creating the Ministry of Defense and swore in the first civilian minister. The chiefs of the army, navy, and air force gave up their separate cabinet-level positions. 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 officially 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 military characteristics and privileges, including a separate judicial system. The federal police force is very small, primarily investigative, and plays little role in routine law enforcement. 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 some impediments to competition, trade, and investment. 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. Exports consist of both manufactured and primary goods. Among the principal exports are coffee, soybeans, textiles, leather, metallurgical products, and transportation equipment. Per capita GDP was about \$2,600 (a

significant drop in dollar terms because of currency devaluation), while the economy grew by 0.9 percent. Income distribution remained highly skewed, and the poorest half of the population received only 10 percent of national income while the richest 10th received 48 percent.

The Government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses. State police forces (both civil and uniformed) committed many extrajudicial killings, tortured and beat suspects under interrogation, and arbitrarily arrested and detained persons. Police were also implicated in criminal activity of all kinds, including killings for hire, death squad executions, and kidnappings for ransom. Prison officials often tortured and beat inmates. The state governments concerned did not punish most perpetrators of these abuses effectively. Police tribunals (special courts for the uniformed police) remained overloaded, rarely investigated cases thoroughly, and seldom convicted abusers. The separate system of uniformed police tribunals contributes to a climate of impunity for police officers involved in extrajudicial killings or abuse of prisoners. Prison conditions range from poor to extremely harsh. The judiciary has a large case backlog and often is unable to ensure the right to a fair and speedy trial. Justice is slow and often unreliable, especially in rural areas where powerful economic interests influence the local judiciary. Human rights monitors on occasion face threats and harassment. Violence and discrimination against women are problems. Child prostitution and abuse are problems. Despite constitutional provisions safeguarding the rights of indigenous people, government authorities often fail to protect them adequately from outsiders who encroach on their lands and fail to provide them with adequate health care and other basic services in many areas. Discrimination against Afro-Brazilians is a problem. Violence against homosexuals is a problem. Forced labor, including forced child labor, is serious a problem. Trafficking in women and children for the purpose of forced prostitution is a serious problem.

The National Secretariat of Human Rights, which was established in 1997, oversees the implementation of the 1996 Action Plan to address human rights abuses and is currently revising the plan in light of the experiences of its first 3 years. The Government undertook several programs to promote the protection of human rights. In an attempt to combat widespread impunity and to protect victims of human rights abuses, the Government passed legislation establishing a witness protection program. The Government's interministerial Committee for the Defense of the Human Being (CDDPH), chaired by the National Human Rights Secretary, continued to be an effective instrument to highlight human rights abuses and allocate federal resources to bolster the efforts of the states. The CDDPH was instrumental in diminishing death squad activity throughout the country. However, because of jurisdictional and resource limitations, the efforts of the Federal Government had an uneven and limited impact in many of the states where human rights violations are most common. The Government continued its interministerial campaign against child labor, which has lowered the incidence of child labor by roughly 24 percent since 1996.

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. The uniformed police summarily executed suspected criminals rather than apprehend them and then filed false reports that the suspects were resisting arrest. The Government's failure to investigate, prosecute, and punish police who commit such acts creates a sense of impunity that continues to encourage human rights abuses. Harsh conditions in prisons and rioting led to the death of inmates (see Section 1.c.).

The lack of accountability and the inefficient criminal justice system allow such impunity to continue. All crimes less serious than murder committed by uniformed police officers against civilians remain in the military justice system. In May an investigation into Sao Paulo's special courts for uniformed police uncovered 1,107 "missing" and "delayed" cases against uniformed police charged with crimes against civilians that include murder and torture. A newspaper that had access to 300 cases under investigation found 100 murder charges among them, some delayed for up to 12 years. Equally long delays allowed many cases of torture and lesser charges to expire due to statutes of limitations. This probe was the closest scrutiny ever of the special police courts and resulted in the authorities bringing criminal charges against two court officials.

Human rights activists believe that the 1996 law (known as the "Bicudo" law) giving civil courts jurisdiction over intentional homicide committed by uniformed police officers has had limited success. Civil prosecutors review only the most egregious and clear-cut cases. In less prominent cases, the decision whether a policeman committed an intentional homicide is based on a routine investigation performed by the police force itself. Almost without exception, the police investigators conclude that suspects were "resisting arrest." In 1995--the last year before the implementation of the new law--police courts convicted 23 percent of officers tried for homicide. In 1998 civilian courts convicted 48 percent of officers charged with homicide. The comparable rate for civilians tried for murder in Sao Paulo is 50 percent.

Police often were members of vigilante groups and death squads that were responsible for killings. In addition, uniformed and civil police involvement in criminal activity is widespread. Throughout the country, police were implicated in crimes ranging from killing for hire and kidnaping to drug trafficking and extortion. In October the Federal Government created a special Center to Combat Impunity, staffed by Justice Ministry officials and Federal Police agents, due to the widespread involvement of police, judicial, and elected authorities throughout the country in organized crime and the intimidation of potential witnesses, including death squad activity, which was exposed by a federal parliamentary committee of inquiry into narcotics trafficking. Public officials and civic leaders at every level, including President Cardoso, have criticized the climate of impunity in that contributes to ongoing acts of violence and crime committed by the police.

The use of torture by police sometimes led to the death of the victims (see Section 1.c.).

Police killings of street children continued (see Section 5).

Harsh or dangerous prison conditions, official negligence, poor sanitary conditions, and a lack of medical care led to a number of deaths in prisons. Inmates at juvenile detention facilities rioted over 20 times during the year. Four inmates were killed during one of the riots in December (see Section 1.c.).

The office of the newly installed police ombudswoman in Rio de Janeiro state received 427 complaints in April, its first month of operation. Complaints against the uniformed police accounted for 70 percent of that total. Police homicides roughly doubled in Rio de Janeiro from 1997 to 1998, where police killed 511 persons through October of that year. According to an earlier Institute for Religious Studies (ISER) study, Rio de Janeiro police killed half of their victims with four or more bullets and shot the majority of victims in either the shoulders or the head; 40 cases clearly demonstrated execution-style deaths, where police first immobilized the victims and then shot them at point-blank range. In 64 percent of the cases examined, the victims were shot in the back.

According to the Sao Paulo state government, the uniformed and civil police killed 664 persons during the year. This reflects an increase of 28 percent over 1998. Off-duty officers were responsible for 224 of the killings, or 34 percent. Sao Paulo's civil police killed 87 persons during the year, an increase of 47 percent from 1998. According to the Sao Paulo police ombudsman, more than half of the victims had no prior police records, a fact that he believes casts doubt on police claims that most shooting victims were resisting arrest.

The Ombudsman for Public Security in Para state reported a total of 27 cases of suspected extrajudicial killings by members of the state police forces through November, compared with 30 cases in 1998.

Four uniformed police officers await trial in a civil court for the highly publicized killing of three young men aged 14, 17, and 21 in Sao Paulo on February 17 (Ash Wednesday). The officers arrested the victims for fighting, beat them, and were seen leading them into a forested area near where the bodies were found 2 weeks later. Each victim was shot once in the head. The perpetrators are charged with aggravated triple homicide, abuse of power, and hiding bodies.

The authorities arrested five uniformed police officers in the March 31 shooting deaths of two persons, one of whom was mentally disabled, in Sao Paulo's Jardim Alba slum. The officers, who said that the victims resisted during a drug search, allegedly shot Jose Nunes da Silva, a disabled 22-year-old, several times in the back. They also killed 28-year-old Ednaldo Gomes do Nascimento, a bricklayer. Witnesses said that the officers dragged the bodies into their police car after the shooting and fired several shots around the area to simulate a shootout. The authorities charged the policemen with aggravated homicide.

The authorities accused three uniformed police officers in Sao Paulo of the April "lynching" death of 20-year-old Ricardo Galvao, who was shot, stabbed, and beaten. Galvao was last seen in a police vehicle after being caught trying to steal a car. The police involved were charged with homicide and awaited trial at year's end.

The authorities placed three uniformed police officers under investigation in the August 7 killings of two men whom they suspected of stealing their police motorcycle. The day after the motorcycle was stolen, the officers returned to the neighborhood, out of uniform, and harassed and threatened residents about the theft. Thiago Henrique Prado and Joao Martins Rissi were shot in the head soon thereafter while riding a motorcycle similar to the stolen police motorcycle. One of the victims was found clutching his identification document, the first item that police demand to see.

In August the authorities placed three uniformed police officers in custody awaiting trial for killing two youths by shooting them in the head and leaving another for dead in Sao Bernardo do Campo, Sao Paulo. A third victim survived by feigning death and was placed in the witness protection program. The officers awaited trial at year's end.

In December the uniformed police of the Federal District shot and killed one person and blinded two others while attempting to disperse a peaceful demonstration by public employees protesting for higher wages at the headquarters of the public works administration. The leadership of the uniformed police claimed immediately after the incident that the police had only used rubber bullets, but the autopsy of the deceased demonstrator showed that he had been killed by live fire. The Governor of the Federal District, Joaquin Roriz, dismissed the secretary for public security and the uniformed police's head of the special operations battalion as a result of the incident.

In Natal in the state of Rio Grande do Norte, in February an unidentified assailant killed Antonio Lopes, a transvestite also known as "Carla". Carla had succeeded in carrying out a private investigation of the 1996 killing of human rights activist Gilson Nogueira, also in Natal. As a result of Carla's efforts, federal police found the weapon used in Nogueira's killing in the home of a civil police officer linked to the Golden Boys death squad.

In January a state judge reinstated four uniformed police who had been suspended from the police force after being charged in the drowning death of a transvestite prostitute in 1998. At year's end, they still awaited trial. The four abducted two transvestite prostitutes, took them to a nearby beach, and ordered them at gunpoint to enter the rough surf. The surviving victim identified the assailants and entered a privately operated witness protection program. The four policemen claimed that they were acting under orders from superiors, but no supervising officers were interrogated or investigated regarding the incident.

The Supreme Military Court annulled on technicalities eight uniformed policemen's military convictions of bodily harm and professional negligence. The policemen were involved in the highly publicized March 1997 killing and extortion incident in Sao Paulo's Vila Naval neighborhood. The defendants' 1998 convictions for homicide and abuse of authority were not affected. The police officers are to be retried, but the courts must retry them within 4 years of the date that the crime was committed (July 1997). The Sao Paulo state supreme court also called for a retrial of Otavio Gamba, also known as "Rambo." A civil court had sentenced Gamba to 65 years in prison for the killing of Mario Jose Josino in the Vila Naval incident. Human rights monitors observed that all the annulments were based on technical grounds and predicted that the policemen will be convicted again in the retrials.

In June a civil court absolved 4 uniformed police of murder in the controversial 1997 killings of 3 persons during an attempt to remove 440 squatter families from Sao Paulo's "Fazenda da Juta" housing project. The police operation was broadcast on television and criticized by many for the use of excessive force. The ruling found that the poorly prepared police fired in self defense after violent provocation. A team of 500 well-equipped shock troops removed the squatters easily the next day after this initial attempt failed. Both the prosecution and defense held that the evidence did not support charges of homicide against the officers. The investigation determined that one officer who faced charges was not present at the scene.

In August a civil trial jury in the city of Belem acquitted 3 uniformed police officers in command of the unit responsible for the 1996 the massacre of 19 landless workers at Eldorado de Carajas in the Amazonian state of Para. Human rights activists and President Cardoso criticized this verdict as a significant setback in the effort to change the climate of impunity regarding police crimes. Prosecutors filed separate motions asking that the verdict be annulled based on the evidence presented at the trial, that the judge be removed from the case on grounds of bias, and for a retrial because of faulty instructions given by the judge to the jury. At year's end, appellate court decisions on all three motions were still pending. National Human Rights Secretary Dr. Jose Gregori announced that he would consider bringing federal charges against the three officers if the verdict were not overturned. The trials of the remaining 147 uniformed police officers under their command continue (3 police initially charged had charges against them dropped), but prosecutors see little hope of convictions if the acquittals of their commanding officers stand. The start of the trial had been delayed for over a year due to procedural appeals by several of the defendants and the change of venue of the trial from the city of Maraba at the request of prosecutors.

In October a judge granted a prosecution motion for a change of venue for the trial of the commanding officer and 10 other uniformed police officers charged with intentional homicide in the August 1995 massacre of nine squatters in Corumbiara, Rondonia. Two police also died in the incident. Two squatters also are charged with intentional homicide for the deaths of the police. Prosecutors dropped charges against nine police, two of the squatters, and two landowners. The trial is scheduled to take place in the state capital of Porto Velho in June 2000.

In November a jury in the state of Rio de Janeiro acquitted former military policeman Valdeir Rezenda of participation in the 1993 massacre of 21 residents of the Vigario Geral neighborhood in Rio de Janeiro. In August a jury found former military policeman Roberto Cezar do Amaral guilty of one count of murder in the massacre. Amaral received a 6-year sentence, most of which he already had served. In October a jury found former uniformed policeman Adilson Saraiva da Hora guilty and sentenced him to 72 years in prison for the massacre. Juries acquitted former uniformed policemen William Alves and Julio Cesar Braga in September and August, respectively. Of the 32 police initially charged in the case, 13 have been acquitted, 4 convicted, and 13 await trial. Two died before coming to trial. As a result of tape recordings made among the original group of police tried while in prison, the authorities brought charges against an additional 19 officers; at year's end, they also awaited trial.

Retired police colonel Ubiratan Guimaraes, having exhausted his appeals in June, is to stand trial in civil court for his role in the deaths of 111 inmates during an October 1992 riot in Sao Paulo's Carandiru prison. Guimaraes would be the first policeman at the rank of colonel to face a civilian jury under the Bicudo law. On May 26, a Sao Paulo court again delayed a hearing for 28 police charged with prisoner beatings during the Carandiru riot. In August the judicial authorities transferred the cases of 85 other uniformed policemen also accused of involvement in the killings from the Sao Paulo state supreme court to a lower court. Justice officials expect this transfer to delay the trial by 2 more years. Due to the statute of limitations, it is likely that the charges of assault against the prisoners will expire; however, the remaining group may be tried for homicide.

Over one-fifth of Sao Paulo's uniformed police officers have received some kind of

community police training under the state's community policing initiative. Initiated in December 1997, the program is expected to take 10 years to implement fully. Under the program, high-ranking police officials meet with citizens' consultative groups weekly. The uniformed police also instituted a policy of "recycling" policemen involved in shootings, removing them from patrols for 6 months and offering them counseling.

The International Committee of the Red Cross (ICRC) continued its human rights training courses for high-ranking state military police officers at the Federal Police Academy in Brasilia. A total of 800 military police have been trained in basic techniques including the apprehension and interrogation of criminal suspects without recourse to excessive or unnecessary force. The program is scheduled to run until September 2000. The results then are to be reviewed by the independent Center for the Study of Violence at the University of Sao Paulo. The military police in Rondonia state already have incorporated the ICRC program into their general police training program.

Death squads in which the police are involved contribute significantly to the level of violence and lawlessness, according to public security officials. Human rights groups reported the existence of organized death squads linked to the police forces that target suspected criminals and persons considered undesirable (such as street children) in almost every state. A report on death squads issued by the committee for human rights of the Federal Chamber of Deputies in June highlighted death squad activity with police involvement in the states of Bahia, Rio Grande do Norte, Mato Grosso do Sul, Mato Grosso, Amazonas, Para, Paraiba, Ceara, Espirito Santo, and Acre. The report stated that death squads "arise because of the loss of credibility in the justice and public security institutions and the certainty of impunity as the result of the incapacity of the institutions that have jurisdiction in resolving the problem." The report indicated that death squad activity appears to be declining except in Bahia. According to human rights activists there, executions attributable to death squads numbered 63 for the first 4 months of the year, compared with 104 for all of 1998 and 93 in 1997.

In October uniformed police in Salvador, Bahia, arrested Robelio Lima dos Santos after an attempted bank robbery in which he was wounded in the pelvis. Although dos Santos was alive when placed in a police vehicle, he arrived at the hospital dead with three shots in his throat. As a result of witness testimony, including that of a photographer who took pictures of Santos while he was still alive, the authorities arrested four uniformed police; they awaited trial at year's end.

In August the Governor of Espirito Santo (the state with the highest rate of homicide), stated in a press interview that death squad activity involving the police contributed significantly to the level of violence in the state. A state police investigation and a state parliamentary committee of inquiry reported that an informal organization, the "Squad le Cocq" involving police, judicial, and elected authorities, including Jose Carlos Gratz, president of the state assembly, was responsible for the vast majority of organized crime in the state.

In Rio Grande do Norte, Maurilio Pinto de Medeiros, a civil policeman who has occupied positions as high as the second ranking official in the state Ministry for Public Security, is accused of leading a death squad called the Golden Boys that is responsible for at least 51 killings in recent years. In Amazonas, a group known as "The Firm," involved in kidnaping, torture, extortion, and child prostitution, reportedly operated with the support

of the state secretary for public security.

An investigation instigated by the former president of the supreme court of Acre state and carried out under the auspices of the CDDPH amassed evidence that former Acre military police chief and former state deputy Hildebrando Pascoal headed a crime ring and death squad in that Amazonian state linked to at least 30 murder and torture cases previously suspended by state authorities for lack of evidence. Charges against Pascoal include the kidnaping--with the collusion of military police officers from Piaui--and murder of the suspected killer of Pascoal's brother, and the kidnaping of the victim's wife and children in an attempt to locate the victim. A congressional committee of inquiry also established Pascoal's control of narcotics trafficking within the state. A witness who testified before that committee identified the site of a mass grave in Acre that federal authorities believe Pascoal's organization used to dispose of at least eight murder victims. Pascoal's election to the federal Chamber of Deputies in October 1998 conferred on him parliamentary immunity from all prosecution. However, in October the Chamber voted to remove Pascoal's immunity, and the police subsequently arrested him. At year's end, he was in prison and awaited trial on charges of murder; addition charges of narcotics trafficking and electoral violations were pending.

In 1998 human rights monitors visiting the morgue in Maceio, Alagoas state, found that the bodies of 12 persons, who allegedly were the victims of a death squad that included members of the police, were missing. The authorities had been investigating the group, known as the Uniformed Gang, because most of its members reportedly were police officers. They arrested more than 60 police officers, and the courts sentenced 3 policemen to 6-year prison terms for illegal possession of machine guns. At year's end, various charges were pending in Alagoas against many of the other 57 officers arrested in this case.

State and federal authorities in the state of Mato Grosso do Sul failed to resolve the case of 5 uniformed policemen implicated in 11 death-squad style killings committed in 1997. A state legislator monitoring the investigation believed that these policemen committed at least 40 such homicides. In a separate incident, the authorities charged one of the five with killing for hire.

The authorities also failed to conclude the investigation of the May 1996 death squad killings in the Franco da Rocha neighborhood of Sao Paulo, although no charges have been filed in connection with the case. Witnesses identified five uniformed police officers as having arrested four men who were found dead a few hours later. Franco da Rocha is one of Sao Paulo state's poorest communities and the location of a clandestine dumping site for the victims of death squads. Since 1993 at least 212 bodies have been found there, including 50 victims killed by bullets to the head. Progress in the investigation has been hampered by difficulty in identifying bodies whose heads or hands were amputated.

Several persons were killed in conflicts involving the settlement of disputes of land ownership and usage. The Rural Landless Worker's Movement (MST) continued its campaign of legal occupation of lands identified as unproductive and illegal occupation of land not yet so designated. MST activists destroyed private property during some occupations, including the burning of an historic farmhouse in Sao Paulo in June. The Catholic Church's Pastoral Land Commission (CPT), the country's foremost entity monitoring human rights in rural areas, released in October its report on rural violence

covering 1998. The report presents a mixed picture of the overall human rights climate relating to the country's land conflicts. Killings of landless activists increased to 47 in 1998, compared with 30 in 1997, while attempted murders rose from 37 to 46. Cases of torture rose from 5 to 35, but less serious indicators of aggression fell sharply. The report notes increased actions by the Government to remove activists from illegal settlements resulting in increased confrontations and destruction of property and homes, but also notes that the pace of agrarian reform outstripped new MST occupations, contributing to a less violent climate overall.

The CPT's report concludes that the climate of impunity enjoyed by landed interests as a result of the "fragile" justice system and the collusion of local political interests continues to encourage serious human rights abuses of landless activists, including murder and torture. However, the report also notes that the tactics of the land reform movement have led to a self-perpetuating cycle in recent years, whereby increased confrontation and tension have led to increased government attention, encouraging in turn more land occupations.

In June the Government launched a toll-free service, "Call Land and Peace" for citizens wishing to report situations of possible conflict in rural areas as a result of confrontations over land issues.

Unidentified gunmen killed the brother of a local MST leader on March 31 in Parana state. Eduardo Anghinoni was shot while visiting his brother, MST leader Celso Anghinoni, in an MST camp in Querencia do Norte. Local MST leaders claimed that the murder was politically motivated and that Eduardo was the true target. The MST blamed members of the Rural Democratic Union (UDR), a landowners' lobby, for the killing. The police arrested three suspects in April but later released them due to insufficient proof. At year's end, the police had made no further progress.

In April 1998, an employee of a local landowner reportedly shot and killed MST leader Sadi Padillo in Abelardo Luz, Santa Catarina. The local Labor Party president charged that an armed militia paid by local landowners had targeted MST leaders for murder. Padilla had led a group of 300 families who occupied a local holding but who had left peacefully after reaching an agreement with the Government's land reform agency. The CPT reported that 26 landless activists were killed through November of that year. In December 1998, Sao Paulo state police reported finding the bodies of two MST members with bullet wounds in their heads and signs of torture. They had been leaders of a group of 180 peasant families who occupied land in September near Sao Jose dos Campos in northeastern Sao Paulo state. Such killings usually go unpunished, because the landowners thought to be responsible for many of them reportedly control the police in isolated areas and intimidate local judges and lawyers with violence and threats of violence.

The Government delayed the trial of MST leader Jose Rainha from December until March 2000, after prosecutors failed to serve proper notice of the trial date to Rainha and his attorneys. In 1997 a court convicted Rainha of the 1989 killings of landowner Jose Machado Neto and police officer Sergio Narciso da Silva. In August 1998, a federal appeals court upheld the decision of the state supreme court of Espiritu Santo to move the retrial of MST leader Jose Rainha to the state capital of Vitoria. A jury in the small, rural town of Pedro Canario, Espiritu Santo, sentenced Rainha to 26 years for the killing. The

jury convicted Rainha even though the prosecution presented no material evidence and witnesses testified to Rainha's presence 1,500 miles away from the scene of the crime. Since Rainha's sentence exceeded 20 years, he was automatically entitled to a retrial.

A 1997 court decision sentenced police investigator Celso Jose da Cruz to a 516-year jail term for involvement in the killings of Machado Neto and Narciso da Silva; Cruz appealed the verdict and awaited a retrial at year's end. Twenty-nine other policemen charged as codefendants in the case still were awaiting trial.

According to human rights activists monitoring the case, proceedings have stalled against the former mayor of Rio Maria, in the state of Para, who was charged with the 1985 murder of Joao Canuto, the first president of the rural workers' union in Rio Maria. Canuto's daughter, Luzia Canuto, received death threats as a result of the case. In June 1998, the Inter-American Commission on Human Rights (IACHR) criticized the Federal Government for failing to prosecute the crime.

The four suspects charged with manslaughter in the burning of Pataxo Indian leader Galdino Jesus dos Santos still awaited trial at year's end. In 1998 an appellate court upheld a 1997 court decision to prosecute for manslaughter rather than murder. In 1999 a superior court ruled that the defendants would be tried by a jury, and the defense appealed the decision. At year's end, a ruling on the appeal was pending. Dos Santos died in April 1997 after the suspects set him on fire while he was asleep on a public bench.

Vigilante groups and death squads, which often included police officials, were also responsible for killings.

The National Secretariat for Human Rights sponsors training programs in human rights, carried out in cooperation with federal and state entities and national and international organizations, in most states. The Secretariat administers a human rights training program for policemen in cooperation with Amnesty International in 10 states. Human rights groups maintain that the effect of these programs has been limited, at best. However, human rights activists in many states reported increased willingness of police authorities to address their concerns and to deal with problems brought to their attention.

b. Disappearance

There were no reports of politically motivated disappearances.

In 1995 Congress passed legislation recognizing and assigning government responsibility for the deaths of political activists who "disappeared" during the military regime while in the custody of public officials, and obligating the Government to pay indemnities of between \$100,000 and \$150,000 (200,000 to 300,000 reias) to each of the families. In September 1997, President Cardoso signed a decree awarding reparations to the families of 43 such persons. A commission created by the law continued to evaluate requests for, and authorize payment of, indemnities.

In May Sao Paulo officials announced the reopening of an investigation to identify 1,048 skeletons found in a hidden mass grave in 1990. Before this inquiry was suspended in 1998, medical examiners had identified the remains of five individuals who disappeared during the military regime.

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

The Constitution and a 1997 law prohibit torture and provide severe legal penalties for its use; however, there are frequent credible reports that police torture and beat criminal suspects to extract information, confessions, or money. Victims generally are poor, uneducated about their rights, and afraid to come forward due to fear of reprisals. The Government estimated in 1994 that fewer than 10 percent of cases of mistreatment by police are reported.

The Government appointed Joao Batista Campelo director of the Federal Police in June, but he resigned days later following allegations that he had supervised the torture of a suspect during an interrogation that he conducted in 1970.

The Sao Paulo state police ombudsman received 356 complaints through the first 6 months of the year alleging torture, abuse, or mistreatment. This represented a slight decrease from the same period in 1998, when the ombudsman received 380 such complaints. Allegations of torture or abuse represented 14 percent of all complaints received, compared with 24 percent the previous year. The ombudsman's office believes that many cases are not reported.

In September the Globo newspaper in Rio de Janeiro published the results of an investigation into allegations of torture by Rio de Janeiro state police. The police opened a total of 53 investigations regarding complaints of torture against police authorities since the 1997 torture law came into effect. Only one of those inquiries, which was suspended officially, had been concluded. The Globo report identifies several patterns, including the use of electric shock, beatings with iron bars, and sexual abuse including sodomy with foreign objects. The report notes that the police classified such incidents as "abuse of authority and physical assault," offenses far less serious than torture. As a result of Globo's reporting, the state government ordered an independent review of the 53 cases, and the Federal Government established a task force to review Rio de Janeiro police practices.

In November in Alagoas state, a court convicted eight former civil policemen of torture and sentenced them to prison in the case of Jose Joaquim Araujo, a suspect who was in police custody in April. The civil police arrested him on suspicion of killing a civil policeman, but 3 days later, another person confessed to the killing. Araujo charged that more than 20 police participated in beating him in an attempt to force him to confess. Only 10 hours after being released from prison, Araujo was killed. The authorities immediately dismissed nine civil policemen and the two commanding officers of the precinct where Araujo was held.

Sao Paulo officials were investigating allegations that investigative police of Sao Paulo's 26th police district humiliated and beat prisoners in May after inmates secretly audiotaped 20 police officers and 2 guards beating them and threatening to kill them. In response to these and other allegations, in October Sao Paulo state authorities announced creation of a special service to receive complaints of torture and violence committed by investigative and uniformed police.

In July an investigator who works with police officers accused a civil (investigative) police supervisor and two detectives of torturing suspects in a police station in Campo

Largo, Parana. The investigator presented tape recordings of torture sessions to a police investigative body. Police chief Marcos Antonio de Oliveira and detectives Moacir Santos Silva and Fernando de Freitas are accused of torturing a victim, who was recorded for 11 minutes screaming and pleading for the officers to stop. The victim gave a deposition and underwent a medical exam to determine the cause of various scars and wounds. The police officers deny any involvement and accuse the investigator of inventing the allegations of torture.

In testimony before the Federal Chamber of Deputies' human rights committee in April 1998, a member of the National Conference of Catholic Bishops' Prison Pastoral Commission criticized the abusive practices of two special units of the Sao Paulo civil police--the special operations group and the armed unit for the prevention of robberies and assaults.

No judgment has been handed down in the case of Otavio dos Santos Filho, who allegedly died as a result of torture at Sao Paulo's Depatri jail. Dos Santos was beaten severely in October 1998, when he insisted on receiving medical treatment for a kidney infection. Dos Santos' death certificate states that he died of a general infection, but relatives claim that photographs they took of his body show clear evidence of torture and beatings. In December the Folha de Sao Paulo newspaper reported that police authorities had taken no disciplinary or investigative action regarding 107 cases of torture and beating that took place in the Depatri jail in February 1998 and were confirmed by the Police Medical Institute.

In 1997 civil policemen in Belem, Para state, under the command of Captain Clovis Martins de Miranda Filho, accosted Hildebrando Silva de Freitas, who apparently failed to pay a bribe for a liquor license for his bar. At Captain de Miranda's direction, as many as 10 police officers severely beat and sexually abused de Freitas. In September 1998, an internal police investigation concluded that de Freitas had suffered severe physical injury and did not contest the testimony of the witnesses who corroborated his account, but declared there to be no connection between his injuries and the officers who had confronted him. At year's end, the case was under review by the Para state prosecutors' office. De Miranda has brought a defamation suit against the state ombudsman for public security in Para for statements that she allegedly made to the press regarding the case. The state has declined to bear the costs of the ombudsman's defense.

Police violence against homosexuals continued (see Section 5).

There continue to be numerous credible reports of state police officials' involvement in crime, including revenge killings and intimidation and killing of witnesses involved in testifying against police officials.

In the first 6 months of the year, the Sao Paulo state police ombudsman received 256 complaints (representing 10 percent of total complaints) of extortion, illicit enrichment, or corruption. These figures represent an 181 percent increase from the same period in 1998, when the ombudsman received 141 such allegations.

Prison conditions range from poor to extremely harsh. Severe overcrowding was prevalent, especially in larger cities. Amnesty International stated that the prison system was "in crisis" in a comprehensive report on prisons released in June. According to

Ministry of Justice figures for 1998, 88,926 prisoners, roughly 85 percent of the prison population, were kept in substandard conditions. Of that total, 70,681 were serving sentences in jailhouses and police lock-ups, rather than penitentiaries. The situation was most critical in the states with the largest prison populations, including Sao Paulo, Rio de Janeiro, Bahia, Rio Grande do Sul, and Pernambuco. Most penal authorities in these states do not have the resources to separate minor offenders from adults and petty offenders from violent criminals. Prison riots were frequent occurrences. Discipline is difficult to maintain under such conditions, and prison officials often resort to inhuman treatment, including torture.

Poor working conditions for prison guards aggravate substandard prison conditions and encourage corruption. The director of Sao Paulo's Carandiru prison (the largest in the country) told representatives from Amnesty International that many cases of torture and use of excessive force result in part from employees' working conditions. An investigation of the more than 1,100 employees of Sao Paulo's prison at the end of 1998 showed that 241 had criminal records themselves. The majority of the charges against them were for crimes committed while working at the prison and ranged from drug trafficking and threats to assisting in escapes. The state secretary of penitentiary administration was aware of the guards' criminal pasts and allowed them to continue working.

Prisons do not provide adequate protection against violence inflicted by inmates on each other. Prisoners are subject to extremely poor health conditions as well. Scabies and tuberculosis, diseases not common in the general population, are widespread in Sao Paulo prisons. The Ministry of Justice estimates that 10 to 20 percent of the national prison population is HIV positive. Denial of first aid and other medical care is sometimes used as a form of punishment.

The Amnesty International prison report was based on 33 visits to prisons in 10 states. In December 1998, Human Rights Watch also issued a comprehensive report entitled "Behind Bars in Brazil," based on an intensive review of prison conditions in eight states. Both reports meticulously detail inhuman conditions and systematic and wide-ranging abuses of human rights throughout the prison system. Among the most serious charges detailed are the commonplace undocumented and uninvestigated deaths of inmates at the hands of authorities or other prisoners, and the routine use of torture against inmates by both guards and police officers.

Overcrowding in Sao Paulo's prisons and police detention centers, which house roughly 40 percent of the country's prisoner population, is a critical human rights problem. Sao Paulo's prisoners exceed the intended capacity of the state's prisons by almost 22 percent; roughly 49,400 prisoners occupy space designed for around 40,500. Half of the 32,000 prisoners in the state's police stations and holding facilities already have been sentenced and should be in state penitentiaries, but remain in temporary facilities due to lack of space. Although state prison capacity increased by 50 percent with the opening of 21 new jails since 1998, intake of new inmates into the older facilities took up 90 percent of the additional new capacity.

In November 1998, President Cardoso approved a law authorizing alternative sentencing for nonviolent offenders, aimed in part at easing prison overcrowding. In its prison report, Amnesty International noted that the states of Rio Grande do Sul and Mato Grosso do Sul have imposed noncustodial sentences effectively, but pointed out that in states such as Rio

de Janeiro alternative sentencing has not been implemented effectively. In Sao Paulo, while 8 percent of convicted criminals are eligible, only 1.3 percent serve alternative sentences. Since 1997 the Government has created capacity for an additional 30,000 spaces, a 43 percent increase in total capacity. While the total prison population grew 14.8 percent since 1997, prison overcrowding has decreased by 7.3 percent. However, the Government has suspended plans for the construction of 52 new prisons.

Women's facilities in Sao Paulo's penitentiary system are even more overcrowded than those for men. Facilities built to accommodate 600 female inmates hold 1,055. The state's prison expansion program did not include provisions for additional space for women.

In August a court in Minas Gerais state convicted three military police and a jail warden of torturing prisoners who had attempted a jailbreak from the Ibia prison in February 1998. The authorities charged them under the 1997 law against torture, and the court sentenced each of the accused to 4 years in prison.

A recent study by the U.N. Latin American Institute for Crime Prevention and Treatment of Criminals reported that between 1994 and 1997, 59 individuals died and 374 were injured in 225 "prison incidents" in Sao Paulo state. These numbers refer to riots only and do not include deaths or injuries from disease or abuse.

Two prison riots on August 8 and 9 in Jundiai, Sao Paulo state, left 3 prisoners dead and 13 wounded. During the riots, 120 private security guards from around the city surrounded the prison and prevented the escape of the 277 inmates (housed in a prison designed for 120). Upon several prisoners' requests, a municipal judge reevaluated their cases, releasing 8 who already had served their sentences and transferring 20 to other prisons.

In May, June, July, and October a series of over 20 riots and escapes occurred in Sao Paulo state youth detention centers, finally leading to the closure and demolition of the "Imigrantes" complex, the largest of the facilities. Before its closure, the Imigrantes complex housed 1,200 youths, although its designed capacity was 350. The Sao Paulo governor personally took charge of the State Foundation for the Care of Juveniles (FEBEM) crisis in October, transferring the minor inmates from the Imigrantes complex to other facilities and announcing a plan to construct several smaller centers, which would allow the state to separate violent and nonviolent juveniles. Teenage inmates brutally tortured and killed four fellow inmates during the biggest and most violent of a series of riots at Sao Paulo's largest youth detention facility (see Section 1.a.).

In April the authorities suspended four FEBEM guards from the Tatuape complex after a Catholic priest filed a complaint charging that guards beat 49 of 75 juvenile offenders. The priest alleged that the minors were beaten with metal bars and wooden sticks. The incident occurred after some of the victims escaped and were recaptured. A judge specializing in youth offenders was investigating the case. Although the authorities were unable to identify the individuals responsible for this abuse, during the last months of the year they were conducting about 30 criminal investigations of FEBEM employees for beating inmates.

During an August 23 search of the Imigrantes FEBEM complex, a group of judges, public prosecutors, and children's advocates found dozens of weapons believed to be used for

torturing inmates. The wooden and metal bats were hidden behind furniture and under insulation in an "employees only" area. A Catholic priest involved in the investigation said that there were 69 youths in the facility who showed signs of torture. The president of FEBEM acknowledged the problem and said that he would try to determine which employees were involved. The president of the employees' union said that the weapons were hidden simply to keep them out of the youths' hands.

It is government policy to permit prison visits by independent human rights monitors, and state prison authorities generally observe this policy in practice. Federal officials in the Ministry of Justice responsible for penal matters offered full cooperation to Amnesty International, which reported no significant problems in gaining access to state-run prison facilities. By contrast, Human Rights Watch noted in preparing its prison report in 1998 that gaining access to prisons was "surprisingly difficult," and that barriers ranged from outright denial of access to the use of procedural delays. Only three states of the eight investigated--Amazonas, the Federal District, and Rio Grande do Norte--made their prisons completely accessible to Human Rights Watch. In 1998 the governor of Ceara withdrew a 1997 decree that barred members of the Catholic Church's prison ministry from entering prisons in that state after a prison riot in Fortaleza.

d. Arbitrary Arrest, Detention, or Exile

The law prohibits arbitrary arrest and detention, and the Government generally observes this prohibition; however, police continued at times to arrest and detain persons arbitrarily. The Constitution limits arrests to those caught in the act of committing a crime or those arrested by order of a judicial authority. The authorities usually respect the Constitutional provision for a judicial determination of the legality of detention, although many convicted inmates are held beyond their sentences due to poor record keeping. The law permits provisional detention for up to 5 days under specified conditions during a police investigation, but a judge may extend this period. However, groups that work with street children claim that the police sometimes detain street youths illegally without a judicial order or hold them incommunicado.

Human rights monitors allege that civil and uniformed police regularly detain persons illegally to extort money or other favors, citing the Vila Naval incident of 1997 (see Section 1.a.) as only the most notorious example.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The judiciary is an independent branch of government; however, it is inefficient, subject to political and economic influence, and plagued by problems relating to lack of resources and training of officials. In many instances, lower-income, less-educated citizens make limited use of the appeals process that otherwise might ensure the right to fair trial.

The judicial system, with the federal Supreme Court at its apex, includes courts of first instance and appeals courts. States organize their own judicial systems but must adhere to the basic principles in the Constitution. There is also a system of specialized courts that deal with police, labor, elections, juveniles, and family matters.

Defendants in criminal cases arrested in the act of committing a crime must be charged within 30 days of their arrest, depending on the crime. Other defendants must be charged within 45 days, although this period can be extended. Defendants for all but the most serious crimes have the right to a bail hearing. Based on the police investigation leading to the formal charges, prosecutors prepare an indictment for the review of a judge, who determines if the indictment meets the legal requirements to bring the accused to trial. A judge and jury try persons accused of capital crimes, attempted homicide, or more serious charges. A judge tries lesser crimes. Defendants have the right to appeal all convictions to state superior courts. They further have the right to appeal state court decisions to both the Federal Supreme Court on constitutional grounds and to the Federal superior court to contest whether a decision was inconsistent with the decision of a court in another state or infringes on federal law. All defendants sentenced to 20 years in prison or more have the automatic right to a retrial in the same court.

Special police courts have jurisdiction over state uniformed police (except when charged with intentional homicide); the record of these courts shows that conviction is the exception rather than the rule. A study of police homicides in Rio de Janeiro state in 1993-96 found no instance of a conviction in 301 cases (see Section 1.a.). These courts (which are separate from the courts-martial of the armed forces, except for the final appeals court) are composed of four ranking state uniformed police officials and one civilian judge. With too few judges for the caseload, there are backlogs, and human rights groups note a lack of willingness by police to investigate fellow officers.

In 1996 the President signed legislation giving ordinary courts jurisdiction over cases in which uniformed police officers are accused of intentional homicide against civilians. However, except for the most egregious or scandalous cases, the internal police investigation determines if the homicide was intentional, and the police tribunal decides whether to forward a case to a civil court for trial. As a result, few cases are referred to the civil courts. The first case to result in the conviction of an officer based on charges of intentional homicide occurred in 1998, when a Sao Paulo court convicted Otavio Gamba in the Diadema roadblock tortures and murders caught on videotape.

In January the federal Senate formed a parliamentary committee of inquiry to examine alleged abuses in the administration of the justice system and to consider reform proposals. In a speech before the Order of Brazilian Attorneys in July 1998, President Cardoso criticized the slowness and poor administration of the justice system and said that reform was imperative. The president of the federal Supreme Court complained in a 1997 press interview about the volume of appeals that by law the Supreme Court must review. It takes 8 years to reach a definitive decision in the average case, a delay the Supreme Court president considered unjust. At the appellate court level, a large backlog of cases hinders the courts' ability to ensure fair and expeditious trials.

Defendants are entitled to counsel and must be made fully aware of the charges against them. According to the Ministry of Justice, approximately 85 percent of prisoners cannot afford an attorney. In such cases, the court must provide one at public expense; courts are supposed to appoint private attorneys to represent poor defendants when public defenders are unavailable, but often no effective defense is provided. Juries decide only cases of willful crimes against life, including crimes by police; judges try all others.

The right to a fair public trial as provided by law generally is respected in practice,

although in rural areas the judiciary generally is less capable and more subject to influence. Similarly, local police are often less dutiful in investigating, prosecutors are reluctant to initiate proceedings, and judges find reasons to delay when cases involve gunmen contracted by landowners to eliminate squatters or rural union activists.

After a series of confrontations between police and rural activists illegally squatting on private land in the southern state of Parana in early 1999, the CDDPH examined charges in June and July by landless advocates that state authorities aggressively prosecuted crimes committed by landless protesters and ignored crimes committed by police and armed agents hired by landowners. As a result of the inquiry, the National Human Rights Secretary publicly called on the state secretary for public security to treat all parties in rural disputes evenhandedly and to prosecute crimes committed by police and landowners with full vigor.

Low pay, combined with exacting competitive examinations that in some years eliminate 90 percent of the applicants, make it difficult to fill vacancies on the bench. The system requires that a trial be held within a set period of time from the date of the crime. However, due to the backlog, old cases frequently are dismissed. According to a former judge, this encourages corrupt judges to delay certain cases purposely, so that they can be dismissed. Lawyers often drag out cases as long as possible in the hope that an appeals court might render a favorable opinion and because they are paid according to the amount of time that they spend on a case.

There were no reports of political prisoners.

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

The Constitution provides for freedom from arbitrary intrusion into the home. Wiretaps authorized by judicial authority are permitted. The law regulating the conditions under which wiretaps may be used appears to strike a fair balance between giving the police an effective law enforcement tool and protecting the civil liberties of citizens. The inviolability of private correspondence is respected.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution prohibits all forms of censorship and provides for freedom of speech and a free press, and the authorities respect these rights in practice.

Newspapers and magazines, which are privately owned, vigorously report and comment on government performance. Both the print and broadcast media routinely discuss controversial social and political issues and engage in investigative reporting. Most radio and television stations are privately owned; however, the Government has licensing authority, and politicians frequently obtain licenses. Current or former congressmen, some of whom are or were members of the committee that oversees communications, own many television and radio stations. It is difficult to determine how many media outlets are indirectly controlled by politicians, since concessions often are registered in the names of family members or friends linked to them. In addition, the Government regularly approves transfers of concessions already granted to other individuals with little oversight.

The penalty for libel under the 1967 Press Law--a prison term--is considered extreme by judges and rarely is imposed. Press criticism has described it as an archaic and authoritarian law inherited from the military regime. In a report issued in October 1998, the National Association of Journalists (ANJ), which represents 115 separate press organizations, claimed that the threat of prohibitive fines and jail sentences discouraged freedom of the press. The ANJ cited two judgments made during the year against publishers that amounted to hundreds of thousands of dollars and included jail terms of several months.

Complex electoral campaign laws regulate the broadcast media and prescribe complicated arrangements to apportion the free use of commercial radio and television broadcast time granted to political parties during an election campaign. The short periods for rulings and nonappeal provisions of the regulations are designed to enforce discipline and to ensure that remedies are applied in a timely matter. Media and free speech advocates generally accept the manner in which the campaign laws are enforced.

Foreign publications are widely distributed; prior review of films, plays, and radio and television programming is used only to determine a suitable viewing age.

The National Federation of Journalists (FENAJ), the Brazilian Press Association, and the ANJ have documented and criticized a number of violent attacks, including killings, and threats against journalists in retaliation for investigative reporting on organized crime, police corruption, government fraud, and human rights abuses. The ANJ cites impunity for crimes committed against journalists and uneven and inappropriate application of the Press Law as impediments to the functioning of a free press without censorship. In its annual report, FENAJ documented 3 retaliatory homicides of journalists and 10 additional cases of death threats and assault in 1998. Charges have been brought in none of these cases.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right to assemble peacefully, and the Government respects this right in practice. Permits are not required for outdoor political or labor meetings, and such meetings occur frequently.

In December police shot and killed one person and blinded two others who were taking part in a protest organized by striking public workers in Brasilia. Due to public criticism over use of such force by police to control the protest, the Federal District governor demanded the resignations of the state secretary for public security and the chief of the uniformed police's special operations division (see Section 1.a.).

The Constitution provides for freedom of association, and the Government respects this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. There is no favored or state religion. All faiths are free to establish places of

worship, train clergy, and proselytize, although the Government controls entry into Indian lands.

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

There are no restrictions on movement, except entry into protected Indian areas, nor are there any restrictions on emigration or return. However, a parent is not allowed to leave the country with children without the permission of the other parent.

On March 31, the mayor of Corumba, Mato Grosso do Sul state, expelled 27 indigents from the city by force only days before a visit by the President. Human rights groups charged that the actions by the mayor and five police officials constituted kidnaping and private imprisonment. The mayor justified his action by saying that the town could not support its 150 indigents and that the 27 he removed were not really town residents. According to the media, many cities in Sao Paulo state allow indigents to stay for only 12 hours before the city buys them one-way tickets out of town.

In July 1997, the Government passed legislation with provisions for asylum and refugee status intended to conform to the principles of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol. The Government provides first asylum and cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting is secret and mandatory for all literate citizens age 18 to 70, except for military conscripts who may not vote. It is voluntary for minors age 16 to 18, for the illiterate, and for those age 70 and over.

Women have full political rights under the Constitution and are increasingly active in politics and government; however, they remain underrepresented in both fields. Cultural, institutional, and financial barriers continue to limit women's participation in political life. The number of female candidates for office in the 1998 national elections roughly doubled, compared with the number in 1994, according to statistics released by the Supreme Electoral Court. Women constituted 12.3 percent of the total candidates. However, their representation in the national Congress decreased from 7.6 percent to 6.1 percent after the 1998 elections; 29 women were elected to the 513-seat Chamber of Deputies, and 5 to the 81-seat Senate. There is 1 woman in the 29-member Cabinet. In May the President appointed the first woman to the 11-member Supreme Court.

Diverse ethnic and racial groups, while free to participate politically, are not represented in government and politics in proportion to their numbers in the general population.

Section 4 Governmental Attitude Regarding International and Nongovernmental

Investigation of Alleged Violations of Human Rights

A number of local and national human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Federal officials generally are cooperative and responsive to their views. Federal and state officials, in light of insufficient resources, in many instances actively solicit the aid and cooperation of NGO's in addressing human rights problems. However, human rights monitors on occasion are threatened and harassed due to their efforts to identify and have action taken against human rights abusers, especially members of the state police forces (see Section 1.a.).

Established in April 1997, the Justice Ministry's National Secretariat of Human Rights oversees implementation of a 1996 action plan to address human rights abuses. The Secretariat administered or sponsored programs to reduce violence among the poor, to train police officials in human rights practices, and to combat discrimination against blacks, women, children, indigenous people, the elderly, and the disabled. The Secretariat was reviewing its programs in light of its experiences in its first 2 years in order to increase its effectiveness. In 1998 the National Human Rights Secretary, Dr. Jose Gregori, received the U.N. human rights prize for his role in implementing the plan and his accomplishments on behalf of human rights, dating back to his cooperation with groups trying to restore democracy during the period of military rule.

In December the Government released the first National Report on Human Rights, independently prepared by the Center for the Study of Violence at the University of Sao Paulo. The National Secretariat for Human Rights, the University of Sao Paulo, and the U.N. Development Program co-sponsored the preparation of the report. The report is a comprehensive account of the human rights situation in each state, and provides information on health, education, public security, and labor conditions. The report also provides a list of human rights monitors and advocates in each state.

Two attorneys working for a human rights group in Aracatuba, Sao Paulo state, received death threats after successfully prosecuting three police officers who were convicted of torture and homicide. The caller gave the attorneys 15 days to leave town or they would be killed. The lawyers asked for police protection and refused to leave the city.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Discrimination on the basis of sex, race, religion, or nationality is against the law, but women, blacks, and indigenous people continued to experience discrimination. The International Labor Organization (ILO) notes that important differences in wages exist to the detriment of women and blacks, particularly in rural areas. The Government passed a law in May 1997 that provides prison penalties and fines for racist acts, including promulgation of pejorative terms for ethnic or racial groups, use of the swastika, or acts of discrimination based on sex, religion, age, or ethnic origin. Several individuals have been charged with racism since the law's enactment, mostly for the use of racial slurs.

There continued to be reports of violence against homosexuals, although it was not always clear that the victim's sexual orientation was the reason for the attack. In January police officials in Rio de Janeiro reported incidents of gangs attacking patrons of known

homosexual bars and nightclubs. The Rio de Janeiro state secretariat for public security instituted a telephone hot line, which persons could call for information regarding acts of violence against homosexuals. The secretariat also instituted a training course for the police in dealing with homosexuals. The Gay Group of Bahia (GGB), the country's best known homosexual rights organization, and Amnesty International have in the past 6 years documented the existence of skinhead, neo-Nazi, and "machista" gangs that attacked suspected homosexuals in other cities including Salvador, Belo Horizonte, and Brasilia. In some cases these gangs included police officers.

The GGB maintains that increasing numbers of homosexuals are being killed because of their sexual orientation. However, the data compiled by the GGB and its claims that violence against homosexuals is rising cannot be confirmed, as they are based on a selective sampling of press and other reports and because the motive for the crime is not always clear. Information from the GGB and other homosexual rights groups clearly indicates that transvestite prostitutes, the most visible homosexual group, are at a greater risk of violence than other homosexuals. Police routinely extort money from transvestites and often beat or kill those who fail to cooperate (see Section 1.a.). Gay rights activists in the city of Recife compiled substantial evidence of extortion and the unlawful use of violence against transvestite prostitutes. In past years, flagrant abuses by the police in the states of Alagoas and Bahia have been reported.

Women

The most pervasive violations of women's rights involved sexual and domestic violence, which are both widespread and vastly underreported. There is a high incidence of physical abuse of women. Most major cities and towns have established special police offices to deal with crimes of domestic or sexual violence against women; such offices total over 200. Rapes reported to the police in the state of Rio de Janeiro increased 45 percent in the period between 1994 and 1998, the last year for which data were available, according to the state secretariat for public security. Both state authorities and women's rights activists agree that a large number of rapes go unreported. According to a study carried out in two middle class neighborhoods in Rio de Janeiro in 1998, only 10 percent of women who had suffered violent attacks reported them to the police. The Sao Paulo Center for Assistance to Female Victims of Sexual Violence reported that 400 women sought the center's intervention in rape cases after receiving no help from the police in 1998. In rural areas, abused women have little recourse since there are no specialized offices available to them. Trafficking in women for the purpose of forced prostitution is also a serious problem (see Section 6.f.).

Men who commit crimes against women, including sexual assault and murder, are unlikely to be brought to trial. Although the Supreme Court in 1991 struck down the archaic concept of "defense of honor" as a justification for killing one's wife, courts are still reluctant to prosecute and convict men who claim that they attacked their wives for infidelity. Preliminary results from a study done by an academic at the Catholic Pontifical University of Sao Paulo indicate that 70 percent of criminal complaints regarding domestic violence against women are suspended without a conclusion. Only 2 percent of criminal complaints of violence against women lead to convictions. In June 1998, the National Movement for Human Rights reported that female murder victims were 30 times more likely to be killed by current or former husbands or lovers than by others. The state of Rio de Janeiro opened two shelters for victims of domestic violence during the year,

bringing the total number in the state to four.

The Constitution prohibits discrimination based on sex in employment or pay and provides for 120 days of paid maternity leave. However, the provision against wage discrimination rarely is enforced. According to statistics released in 1998 by the International Confederation of Independent Unions, women are paid on average 44 percent less than men. According to government statistics released in August 1998, women with a high school education or less earn, on average, 63 percent of the salaries earned by men with the same level of education. Black women earned on average 26 percent of a white male's salary. A 1998 study by a sociologist showed that women who started working in positions in which they earned twice the minimum wage advanced in pay after 10 years to a wage of seven times the minimum wage. Men starting in the same positions earned 2.6 times the minimum wage and advanced to a wage of 10.9 times the minimum wage after 10 years. A Ministry of Labor survey reported that the average starting salary for high school educated women in Sao Paulo was one-third less than the average starting salary for high school educated men.

In response to the Maternity Leave Law, some employers seek sterilization certificates from female job applicants or try to avoid hiring women of childbearing age. In an effort to end such practices, President Cardoso signed a law in 1995 that prohibited employers from requiring applicants or employees to take pregnancy tests or present sterilization certificates. Employers who violate the law are subject to a jail term ranging from 1 to 2 years, while the company must pay a fine equal to 10 times the salary of its highest paid employee.

Children

Millions of children continue to suffer from the poverty afflicting their families, must work to survive, and fail to get an education. Schooling is free and compulsory for the first six grades and is available in all parts of the country. The education system does not exclude any groups; however, 1.5 million children between 7 and 14 years of age do not attend school.

According to data released by the U.N. Children's Fund (UNICEF) in June, 21.1 million children and adolescents, or 35 percent, live in poverty. More than 2.9 million children age 14 and under continue to work; 583,000 of whom were between the ages of 5 and 9. Many of these children work together with their parents, most often in agriculture, under conditions approximating forced labor or debt bondage (see Sections 6.c. and 6.d.). Many other children beg on the streets of cities. A UNICEF report published in June estimated that 50,000 children nationwide work in garbage dumps sorting trash for re-use. According to the most recent government figures released in November, the number of children working has decreased steadily since 1993, while the number of children attending school has increased. The Federal Government administers a total of 33 programs under 5 separate ministries aimed at combating child labor. The Ministry of Labor's program for the eradication of child labor provided supplemental income or "school scholarships" to the families of 147,000 children in rural areas who in return must attend school. According to the Government, an additional 202,000 children living in urban areas benefit from similar programs administered by municipalities. The city of Belo Horizonte announced in March that a similar pilot program, cosponsored by UNICEF and implemented in 1996, had served 1,500 children, achieved a success rate of

92 percent. The cities of Olinda and Sao Bernardo do Campos also started similar programs. Participating families received the equivalent of \$60 a month in return for which their children had to attend school regularly. However, in November the Federal District government suspended the school scholarship program, one of the country's first, originally adopted by the previous administration and considered by UNICEF and children's advocates as widely effective.

According to research undertaken by UNICEF, the nation significantly lowered its rates of child mortality and malnutrition and made progress in access to education; however, UNICEF noted that not all the goals for progress in specific health categories for the year 2000 would be reached.

There are no reliable figures on the number of street children, some of whom are homeless, but the majority of whom return home at night. Disparities in the numbers of children living in the street reported by children's rights activists indicate the difficulty of arriving at accurate estimates. The Center for the Defense of Children and Adolescents (CEDECA) in Belem, in the state of Para, reported that in 1998 a total of 2,328 youths under the age of 18, totaling 0.5 percent of the youth population, spent their days in the streets. CEDECA estimated that 97 of those youths lived permanently in the streets. CEDECA estimated that the total number of street children in Belem declined by 33 percent from 1993, while the number of youths living in the streets declined by 62 percent.

In Rio de Janeiro, an organization aiding street children estimated in 1997 that 30,000 frequent the streets by day but probably less than 1,000 sleep there. In Sao Paulo, NGO's aiding street children estimated that some 12,000 children roam the streets by day and that from 3,000 to 5,000 of them live permanently on the streets. In Salvador, Bahia, NGO's estimated that the number of children who sleep in the streets was less than 1,000, although this number fluctuates widely during the weeks between Christmas and Carnival, when children from the region are attracted to the city by the large number of tourists and festivals. CEDECA in Belem also noted wide fluctuations in the population of street children as a result of the celebration of local festivals.

NGO's in Rio de Janeiro have made 28 shelters available for homeless children, but some children prefer the freedom and drugs that street life offers. Drug use, particularly glue sniffing and crack, is increasingly prevalent among street children. One dose of poor quality crack sells for \$0.55 in downtown Sao Paulo. NGO's report that extreme poverty at home or sexual abuse by fathers and stepfathers are the principal reasons so many children choose to live in the streets. A national study of rape cases carried out by a group of Sao Paulo academics indicated that family members committed roughly 70 percent of rapes within their own homes. An IBGE study reported that 47 percent of Sao Paulo street children come from families that earn less than \$200 ((350 reias) per month. Nationwide, the Inter-American Development Bank estimated that some 30 million children live below the poverty line and increasingly come from households headed by women.

Because street children have a high rate of drug use and have been involved in assaults and robberies, a significant portion of the public supports harsh police measures against them, viewing the issue as one of crime and security, not human rights. CEDECA in Salvador attributes the vast majority of unresolved homicides of children in the Salvador region to the action of police and death squads.

According to statistics released by the Government in November, homicide remains the leading cause of death among 15- to 19-year-olds. Previous statistics from UNICEF and the IBGE showed that the homicide rate within this age group more than tripled between 1980 and 1997. Among children between the ages of 10 and 14, homicide accounted for 5.1 percent of all deaths in 1998. According to the ISER, in Rio de Janeiro the rate of homicides of children ages 10 to 14 rose 34.4 percent and the rate of youths ages 15 to 19 rose 30.6 percent between 1996 and 1998. During the same period, the general rate of homicide decreased. Within a 2-month period in May and June, a total of four youths were killed in public areas in the city of Rio de Janeiro. The CEDECA in Belem reported a 40 percent increase in the incidence of violence against children under the age of 18 in Para state during 1990-97. The majority of the victims were between 15 and 18 years of age.

Trafficking in children for the purpose of forced prostitution is a serious problem (see Section 6.f.).

A study released in March by the Information Network for Violence, Exploitation, and Sexual Abuse of Children and Adolescents (CECRIA), an entity within the National Human Rights Secretariat, states that government efforts to combat sexual exploitation of children need to be better tailored and coordinated (see Section 6.f.). It cites 40 separate programs in the country operated by national and international NGO's, some in partnership with government entities, but notes that most of the programs face shortfalls in resources and personnel. In association with the Ministry of Justice, the NGO ABRAPIA has since 1997 operated a telephone hot line to register complaints of sexual abuse against children and adolescents. The ABRAPIA also administers the "SOS-child" program in Rio de Janeiro state that registers complaints of domestic abuse against children and provides medical and social assistance.

In April Sao Paulo civil police identified a child prostitution ring in the suburb of Guarulhos that exploited girls as young as age 11. The ring counted on the complicity of nightclubs, motels, hotels, and even the girls' parents. Police claimed that the girls' parents were involved in the scheme and received part of their daughters' earnings.

In June federal authorities charged eight persons with operating a child prostitution ring in the city of Teresina, capital of the state of Piaui. Among the accused clients of the ring were police officers. In September civil police in Alagoas uncovered a child prostitution ring involving local judicial authorities. In October civil police in Maranhao uncovered a child prostitution ring involving police, judicial authorities, and elected authorities.

In October police in Campo Grande, Mato Grosso do Sul state, arrested three persons accused of running a brothel using girls between the ages of 13 and 16 (see Section 6.f.).

People with Disabilities

The Constitution contains several provisions for the disabled, stipulating a minimum wage, educational opportunities, and access to public buildings and public transportation. However, groups that work with the disabled report that state governments failed to meet the legally mandated targets for educational opportunities and work placement. A 1991 law stipulates that all businesses with over 200 employees must reserve 2 percent of their vacancies for the disabled. In August labor officials in the Federal District launched an

information campaign to encourage firms to comply with the law and warned that firms not complying could be fined.

The National Human Rights Secretariat sponsored a "City for Everyone" program in cooperation with municipal governments and national and international NGO's that focused on provided better access for the disabled to public areas and public transport. However, little progress in elimination of architectural barriers to the disabled has been made. In August the government in Rio de Janeiro state mandated that bus companies must make a specific number of buses on certain routes accessible to wheelchair users within 3 months. By year's end, 6 percent of the cities' bus fleets had been adapted for wheelchair use; however, no intercity or interstate buses had been modified.

According to the Federal Ministry of Education, in 1997 only 5 percent of the estimated 6 million school age children with disabilities had access to specialized instruction. Throughout the country, only 43 percent of school districts offer special instruction for disabled children. In the nine states in the northeast, only 24 percent of school districts offer special instruction.

Indigenous People

The Constitution grants the indigenous population of approximately 330,000 broad rights, including the protection of their cultural patrimony and the exclusive use of their traditional lands; however, the Government has fallen short of securing these rights for indigenous people in practice. The Government estimates that over half live in poverty in communities whose traditional ways of life are threatened on a variety of fronts. The number of indigenous citizens receiving food assistance in the southern states of Sao Paulo and Rio Grande do Sul exceeded the total indigenous population at the time of the 1995 census in those states. The greatest number of beneficiaries reside in Mato Grosso do Sul state, where 42,000 persons of a total indigenous population of 45,300 receive food assistance.

Indigenous leaders and activists complain that indigenous peoples have 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 for health care, other basic services, and protection of indigenous reserves from non-Indians. Illegal mining, logging, and ranching are serious problems on Indian land.

The National Indian Foundation (FUNAI) is responsible for the coordination and implementation of indigenous policies. The President appoints the head of FUNAI; it is organized into 52 regions whose directors are appointed directly by the FUNAI president.

The 1988 Constitution charged the Federal Government with demarcating indigenous areas within 5 years. During the year, the Government demarcated 6 areas totaling about 3,000 square miles. At year's end, the Government had completed demarcation of roughly 79 percent of the total area of identified indigenous territory. Of the total of 561 identified indigenous areas, 205 remain to be demarcated legally. Identified indigenous territory comprises 11 percent of the national territory.

The Government estimates that 208 of the total of 561 identified indigenous lands are

used illegally by non-Indians for mining, logging, and agriculture. Non-Indian invaders destroy the environment and wildlife, spread disease, and provoke violent confrontations. FUNAI admits that it does not have the necessary resources to protect indigenous lands from encroachment. In 1996 the Federal Government officially demarcated a 2,500 acre indigenous area in Rio Grande do Sul belonging to the Caingangue Indians. However, non-Indians who have occupied the land for years continued to charge the Indians rent to farm their land.

Due partly to the Government's failure to provide adequate medical care as required by law, indigenous people have suffered epidemics of malaria, measles, and tuberculosis. According to the chief of FUNAI's medical department, 60 percent of the indigenous population suffers from a chronic disease such as tuberculosis, malaria, or hepatitis. In certain areas of the Amazon region, up to 80 percent of the population are affected. Illegal mining in the Amazon has led to the doubling of the incidence of malaria in the period 1994-98. FUNAI estimates that 75 percent of the affected population is indigenous. The infant mortality rate among the Yanomami in 1997 was 13 percent, while infant mortality among non-Indian residents was only 1.5 percent. According to health workers' unions, poor working conditions and lack of resources from the Government make it very difficult for health workers to travel into indigenous areas to provide sufficient medical care.

FUNAI also has been unable to provide mandated health care and other basic services. Hoping to improve the level of health care provided to indigenous people, in June the Government transferred that responsibility from FUNAI to the Ministry of Health.

In October police in Pernambuco arrested and then subsequently released for lack of evidence a suspect in connection with the May 1998 killing of Francisco "Chicao" de Assis Araujo. Indigenous rights activists criticized the release, noting that the suspect was identified after extensive assistance from an eyewitness. Araujo was a prominent campaigner for the indigenous population in his home state of Pernambuco. He had defended the land claims of his tribe, whose lands are being encroached upon by ranchers.

In December 1998, the Federal Government issued a decree recognizing the original boundaries of the Raposa Serra do Sol indigenous area in the Amazonian state of Roraima, overturning a controversial decision made in 1996 by the Justice Minister to limit and alter the shape of the reserve. However, in April a state court upheld a claim brought by local landowners and economic interests and suspended the demarcation process. Indigenous activists claim that the Government's failure to carry out the December 1998 decree and allocate resources for the area's final demarcation was a political concession to local economic and political interests who then were able to influence the state court. The demarcation of Raposa Serra do Sol has been pending since 1992.

The Constitution provides Indians with the exclusive use of the soil, waters, and minerals on indigenous lands, subject to congressional authorization. In granting authorization, the Constitution stipulates that the views of the affected communities must be considered and that the communities also must "participate" in the benefits gained from such use. However, legislation regulating mining on indigenous lands has been pending before the Congress since 1995. The Catholic Church-affiliated Indigenous Missionary Council (CIMI) criticized the regulations within the legislation that would provide for indigenous groups' approval of mining concessions and their participation in the profits from mining,

on the grounds that they do not sufficiently address the constitutional rights of indigenous people.

Landowners brought a civil action to the Supreme Court against a lower court ruling in Bahia that restored demarcated land of the Caramuru-Catarina Paraguacu reserve to the Pataxo Ha-Ha-Hae tribe. At year's end, no trial date had been set. Some tribe members began separate negotiations with landowners, who under FUNAI regulations may receive "indemnification for benefactors of good faith" in demarcation disputes. However, tensions remain extremely high in the area. In November Indians occupying part of the reserve held by farmers fired on and killed two uniformed police who had been dispatched to dislodge them. The Indians immediately fled the area, but one was subsequently charged with homicide. The state government dispatched more than 150 uniformed police to secure the area.

No charges have been filed in the case of mass sterilizations promoted among women of the Pataxo tribe of Bahia by federal Deputy and medical doctor Roland Lavigne in exchange for votes during his 1994 electoral campaign. Pataxo women were reluctant to have children because of the general level of poverty in their community, and campaign workers reportedly convinced them that sterilization was the only effective form of birth control. CIMI claims to have confirmed independently that Lavigne sterilized at least 56 Pataxo women over the last 4 years. In the small settlement of Itaju do Colonia, all 10 of the women of childbearing age of the Pataxo Ha-ha-hae tribe were sterilized. CIMI reported that Lavigne paid campaign workers according to the number of Pataxo women brought to area hospitals. Pataxo leaders claimed that the sterilizations were a deliberate program of genocide intended to eliminate their tribe and free their land for farmers who illegally occupy the Pataxo reserve. Pataxo leaders requested federal police protection in August after receiving threats from farmers who are settled on their land. Federal and state authorities continue their investigation into the case.

Religious Minorities

Leaders in the Jewish community expressed concern over the appearance of anti-Semitic material on Internet websites compiled by neo-Nazi groups.

National/Racial/Ethnic Minorities

Although racial discrimination has been illegal since 1951, darker skinned citizens say that they frequently encounter discrimination. Legislation in force since 1989 specifically prohibits, among other practices, denial of public or private facilities, employment, or housing to anyone based on race. A 1997 amendment to this law added prohibitions against and jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets. The media reported several arrests of persons charged with using racial slurs during the year. In April a judge sentenced a woman in the city of Porto Alegre to 4 months in prison for using an ethnic slur against her neighbor.

An Afro-Brazilian woman in the city of Salvador, Bahia, filed suit against the authorities of a carnival group after they allegedly refused to allow her to join because of her race. The publicity surrounding the case led to other allegations of race discrimination in the organization of Salvador's carnival activities. As a result, more than 40 carnival groups

subsequently adopted a voluntarily code limiting their grounds for denying prospective members and prohibiting denial on the grounds of race.

In Sao Paulo human rights activists continued to express concern because of discrimination against blacks and poor persons from the northeast by neo-Nazi groups in the south. A group of human rights activists led by the chairman of the Sao Paulo state assembly's human rights committee called for investigation into the use of the Internet by racist organizations to disseminate illegal propaganda. The chairman identified the National Socialist Union for Sao Paulo and the National Front for Order and Progress as two of the groups. One human rights activist who monitors the Internet indicated that the number of neo-Nazi sites decreased during the year. In August 1998, a university student in Sao Paulo was charged under the antidiscrimination law with disseminating racially offensive materials on the Internet.

According to research carried out by the Inter-Union Department of Statistics and Socioeconomic Studies in 1998, Afro-Brazilians had higher rates of unemployment, earned less, and enjoyed less job stability than white Brazilians in each of the five largest metropolitan regions where data were gathered. In the region of Salvador, Bahia, which has the highest percentage of Afro-Brazilians of any metropolitan region, unemployment among Afro-Brazilians was 45 percent higher than among whites (the difference among heads of household was 75 percent). In Sao Paulo, Afro-Brazilian unemployment was 41 percent higher than among whites and 64 percent higher among heads of households. Afro-Brazilian men earned on average between 62 percent and 70 percent of the average salary earned by white men in the five regions surveyed. Afro-Brazilian women earned on average between 33.5 and 47 percent of the average salary of a white man.

According to a government-sponsored study released in April by the Institute for Applied Economic Research (IPEA), whites are more than twice as likely as blacks to expand a small business successfully. When levels of education and experience are equivalent, whites are still 33 percent more likely to expand their businesses. The IPEA study indicates that self-employed blacks earn 64 percent less than their white counterparts, while black business owners earned 54 percent less than their white counterparts. Illiteracy is also a problem: 32 percent of blacks are illiterate, compared with 14 percent of whites. Of 30,000 students at the University of Sao Paulo in 1997, only about 1,000 were black.

A much higher percentage of blacks are convicted by courts than whites, according to professor Sergio Adorno of the University of Sao Paulo's Nucleus for the Study of Violence. Adorno analyzed 500 criminal cases judged in Sao Paulo courts in 1990 and found that 60 percent of whites able to afford their own lawyers were acquitted, while only 27 percent of blacks who hired lawyers were found not guilty.

In September 1997, the Federal Government's Interministerial Working Group for the Valorization of the Black Population issued 29 recommendations, including the creation of affirmative action programs for university admissions and government hiring. The group is charged with proposing public policies to increase the participation and access of Afro-Brazilians in society. The National Secretariat for Human Rights adopted some of the group's recommendations in the national human rights program and planned to incorporate many others in its revision of the National Human Rights Plan.

Section 6 Worker Rights

a. The Right of Association

The Labor Code provides for representation of all workers (except members of the military, the uniformed police, and firemen) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. The sole bureaucratic requirement for new unions is to register with the Ministry of Labor, which by court decision must accept the registration and record it.

Under a restriction known as "unicidade" (one per city), the code prohibits multiple unions of the same professional category in a given geographical area. The 1988 Constitution freed workers to organize new unions out of old ones without prior authorization of the Government, but retained other provisions of the old labor code. All elements of the labor movement as well as the International Confederation of Free Trade Unions (ICFTU) criticize the retention of unicidade. The Government has promised to end unicidade, but by year's end it had not yet introduced any such legislation.

Unicidade has proven less restrictive in recent years, as more liberal interpretations permitted new unions to form and, in many cases, to compete with unions and federations that already had enjoyed official recognition. In practice, unicidade is enforced by the system of labor courts, which retain the right to review the registration of new unions and to adjudicate conflicts over their formation. This often can result in complicated jurisdictional quarrels. A splinter group used the principle of unicidade to resist a consolidation movement by the Workers' Unitary Central (CUT) and formed its own metalworkers' local in the ABC industrial suburbs of Sao Paulo in 1995. The dispute lasted 3 years before a court settlement was reached. The settlement, approved by a majority of the members of the unions involved, provided for the reincorporation of the dissident union into the Sao Paulo ABC metalworkers' union.

Unions are independent of the Government and of the political parties. The leadership of major unions is distinct and independent from that of the political parties. In general, the major unions support left-of-center parties and in some instances form formal alliances with left-of-center parties to advocate or carry out protest acts regarding specific issues. Approximately 25 percent of the work force is organized, with well over half this number affiliated with an independent labor central. Intimidation of rural labor union organizers and their agents continues to be a problem.

The Constitution provides workers with the right to strike (except for the military, police, and firemen). Enabling legislation passed in 1989 stipulates that essential services must remain in operation during a strike and that workers must notify employers at least 48 hours before beginning a walkout. The Constitution prohibits government interference in labor unions, but provides that "abuse" of the right to strike (such as not maintaining essential services, or failure to end a strike after a labor court decision) is punishable by law. The Constitution specifies the right of public employees to strike, subject to conditions enacted by the Congress. Since the Congress has yet to pass the complementary legislation, labor and legal experts debate the limits of the right to strike for public employees. In practice, the Government has not interfered with their right to strike.

Autoworkers, truckers, doctors in public health facilities, teachers, and municipal transit workers struck during the year. Formerly, the courts almost automatically ruled strikes abusive; in recent years the courts have applied the law with more discretion. The 1989 strike law prohibits dismissals or the hiring of substitute workers during a strike, with certain exceptions, provided that the strike is not ruled abusive.

Although the law makes no provision for a central labor organization, three major groups have emerged: the Workers' Unitary Central, the Workers' General Confederation (CGT), and the Forca Sindical (FS). A fourth central, the Social Democratic Union (SDS), was founded in September 1997. The centrals do not have legal standing to represent professional categories of workers, but all three centrals effectively can acquire such standing by affiliating with existing statewide federations or nationwide confederations, or by forming new federations and confederations.

Unions and centrals freely affiliate with international trade union organizations. All three major centrals are affiliated with the ICFTU.

b. The Right to Organize and Bargain Collectively

The Constitution provides for the right to organize. With government assistance, businesses and unions are working to expand and improve mechanisms of collective bargaining. However, the scope of issues legally susceptible to collective bargaining is narrow. The labor court system exercises normative power with regard to the settlement of labor disputes, discouraging direct negotiation. The Cardoso Government made expansion of collective bargaining one of its major objectives in the labor sector.

In mid-1995 the Cardoso administration promulgated a provisional measure that simultaneously ended inflation indexing of wages, allowed for mediation of wage settlements if the parties involved so desired, and provided greater latitude for collective bargaining. Unions have welcomed these changes, since previously the Labor Court and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. In many cases free negotiations set wages; labor court decisions set them in others. Under the provisional measure, parties now may choose mediation freely.

The ILO notes that important differences in wages continue to exist to the detriment of women and blacks, particularly in the rural sectors (see Section 5).

The Constitution incorporates a provision from the old Labor Code that prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nonetheless, dismissals take place, with those dismissed required to resort to a usually lengthy court process for relief. In general, the authorities do not enforce effectively laws protecting union members from discrimination. Union officials estimate that only 5 percent of such cases reaching the labor court system are resolved within days through a preliminary judicial order. The other 95 percent generally take 5 to 10 years (and sometimes longer) to resolve.

Labor law applies equally in the free trade zones. The unions in the Manaus free trade zone, like rural unions and many unions in smaller cities, are relatively weaker vis-a-vis industry than unions in the major industrial centers.

c. Prohibition of Forced or Compulsory Labor

Although the Constitution prohibits forced labor, there continue to be credible reports of forced labor in many parts of the country. Forced labor is most common in charcoal production and agriculture. The majority of cases occur when employers recruit laborers from population centers and transport them long distances to remote areas where escape is difficult. The Catholic Church's Pastoral Land Commission reported 14 cases of forced labor in 5 different states involving more than 600 workers in 1998. The number of cases of forced labor reported to the CPT has declined in the period 1996-98 (also see Section 6.d.).

State police acknowledge that overseers or owners of many farms withhold pay from migrant laborers and use force to retain and intimidate them, but assert that such violations fall within the jurisdiction of the Federal Ministry of Labor. Federal labor and police officials state that cooperation with state police regarding labor violations is improving but far from optimum.

The Federal Government's Executive Group to Combat Forced Labor (GERTRAF), coordinated by the Ministry of Labor, includes representatives from five different ministries and is administered in six regions throughout the country, so that local enterprises cannot rely on friendly local authorities to escape punishment. The enforcement arm of GERTRAF is the Special Group for Mobile Inspection, which consists of over 3,100 agents. During 1995-97, the teams carried out more than 400 raids and uncovered more than 130,000 persons working under conditions of varying degrees approximating forced labor. In 1998 the group carried out 64 raids and uncovered 3,531 persons working in conditions of forced labor. Ministry of Labor officials admit that enforcement has been hampered by the remoteness of the areas in which forced labor is practiced and the difficulty of arriving in these areas without alerting those employing illegal labor. However, they say that the mobile inspectors have refined their tactics and greatly improved their enforcement abilities.

Government officials and labor activists say that widespread poverty, low levels of education, and lack of awareness of worker's rights greatly complicate the effort to combat forced labor. Additionally, freed workers are often afraid to testify against those who recruited and supervised them and are unable to remain in the region in order to testify. Thus the authorities often have found it difficult to identify and locate the owners of farms or businesses that exploit forced labor. In 1997 the CUT initiated a 24-hour hot line with a toll-free number for reporting instances of forced labor. The Government passed legislation in December 1998 further defining forced labor and prescribing specific penalties for those convicted under the law.

Trafficking in women for the purpose of forced prostitution is a problem (see Section 6.f.).

The law prohibits forced and bonded labor by children, but it is not enforced adequately. Labor organizations continue to allege that in mining and the rural economy thousands of workers, including minors, are hired on the basis of false promises, and subjected to debt bondage and to violence if they try to escape. Trafficking in children for the purpose of forced prostitution is a problem (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Government amended the Constitution in December 1998 to raise the minimum working age from 14 to 16 years. Under the amendment, apprenticeships may begin only at age 14. However, the authorities rarely enforce additional legal restrictions intended to protect working minors under age 18, and the problem is widespread.

The law requires permission of the parents for minors to work, and working minors must attend school through the primary grades. Schooling is free and compulsory for the first six grades, and available in all parts of the country. The majority of children remain in school until age 14. The law bars all minors from night work, work that constitutes a physical strain, and employment in unhealthful, dangerous or morally harmful conditions. However, the Government estimates that 60,000 children work in unhealthful conditions.

Despite these restrictions, official figures state that roughly 2.9 million children age 14 and under were employed, accounting for 4.2 percent of the work force. Many children are forced by economic necessity to work alongside their parents in cane fields, cutting hemp, or feeding wood into charcoal ovens; frequent accidents, unhealthy working conditions, and squalor are common in these cases.

The problem of child labor is serious. The small number of available inspectors limit enforcement of restrictions. Inspection suffers from a lack of resources, and as with forced labor, inspectors generally act on the basis of complaints and tips concerning the use of child labor. Employers illegally using child labor have been fined heavily for their offenses.

The Government's national forum for the prevention and eradication of child labor, a program administered by the Labor Ministry in partnership with national and international NGO's, has been effective in significantly reducing child labor. According to government figures released in April, the number of child laborers has decreased over 26 percent since 1996 (see Section 5).

A report published by the Sergipe state government in 1997 stated that 10,000 children and adolescents between the ages of 6 and 18 were part of the labor force in the orange-growing region, with 54 percent between the ages of 7 and 14. Sergipe officials have acknowledged that the problem of child labor is widespread, and the state launched a federally funded program in May 1998 aimed at encouraging families to keep children in school rather than at work in the orange groves.

Sugar cane growers illegally employ children and adolescents ranging from 7 to 17 years of age, many cutting cane with machetes. The charcoal industry, hemp cultivators in the northeast, and orange growers all have used illegal child labor. Children also perform various tasks in the mining and logging industries in the Amazon region. In addition, although both the Government and the industry have made strong efforts to eliminate it, there is still some child labor in the shoe industry.

The private sector and particularly the Toy Manufacturers' Foundation for Children's Rights (ABRINQ) have been active in trying to remedy many of these abuses. ABRINQ reached an agreement with the Sao Paulo state sugar producers to remove child labor from that industry. In addition, ABRINQ persuaded Abecitrus, the citrus export organization, to

agree to remove child labor from its operations. Because of ABRINQ's efforts, Volkswagen and General Motors, as well as other automakers, are studying the role of child labor in charcoal production, which is used to produce the cast iron and steel used in cars. Both manufacturers agreed to cease using products in which child labor is an element.

ABRINQ has emphasized not just ending child labor but also putting children into good-quality schools. The shoe manufacturers in the city of Franca, with the help of ABRINQ, virtually eliminated child labor there and enhanced the educational opportunities of children whom they formerly employed. A similar project with Ministry of Labor direction has been successful in removing child labor from the shoe industry in Rio Grande do Sul. In Mato Grosso do Sul, a government-sponsored project has taken children from the charcoal industry there to the classroom, with parents receiving roughly the equivalent of the child's monthly earnings as long as the child attends school. The project, which began with 1,000 children, has been expanded to involve nearly 2,500. In Rio Grande do Sul, encouraged by the ABRINQ model, unions representing tobacco growers, local cigarette manufacturers, and several international tobacco companies initiated a similar project in April targeted at farm families who use their own children in tobacco cultivation.

Because of the success of the program in Mato Grosso do Sul, the Ministry of Labor expanded the program to the sugar producing regions of Pernambuco, where 20,000 children participate, and to the hemp-growing area of Bahia, which has a program for more than 8,000 children. In addition, the Ministry has begun a program to raise public consciousness concerning child labor, which ministry officials consider the key to eradication of the problem.

The law prohibits forced and bonded labor for all workers, including children; however, enforcement varies considerably depending on the location.

e. Acceptable Conditions of Work

The minimum wage is approximately \$70 (136 reais) a month, which is not sufficient to provide a decent standard of living for a worker and family. A 1997 study by the Interunion Department of Socioeconomic Studies and Statistics concluded that the minimum wage was only slightly more than one-fourth that necessary to support a family of four. Many workers outside the regulated economy, particularly in the rural northeast, earn less than the minimum wage.

The Constitution limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The Constitution provides for pay and fringe benefits and establishes new protection for agricultural and domestic workers, although not all provisions are enforced. All workers in the formal sector receive overtime pay for work beyond 44 hours, and there are prohibitions against excessive use of overtime.

Unsafe working conditions are prevalent throughout the country. Fundacentro, part of the Ministry of Labor, sets occupational, health, and safety standards, which are consistent with internationally recognized norms. However, the Ministry has insufficient resources for adequate inspection and enforcement of these standards. There are also credible allegations of corruption within the enforcement system. If a worker has a problem in the

workplace and has trouble getting relief directly from an employer, the worker or union can file a claim with the regional labor court, although in practice this is frequently a cumbersome, protracted process.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. However, such firings do occur, and legal recourse usually requires years for resolution. While an individual worker does not have the legal right to depart a workplace when faced with hazardous conditions, workers may express such concerns to the internal committee, which would conduct an immediate investigation.

f. Trafficking in Persons

The law prohibits the transport of persons for illicit reason within and outside the country; however, trafficking in persons, including women and children, in, to, and from the country is a problem.

The Federal Police arrested several suspects in the capital of Brasilia, and in the states of Goias, Rio de Janeiro, and Ceara, involved in recruiting women to work as prostitutes in Barcelona and other parts of Spain. The police also reported that women have been trafficked to Japan to work as prostitutes. Women sent to Europe and Israel by trafficking rings reportedly often are denied their liberty and forced to work under inhumane conditions. Police officials stated that in most cases women who are recruited by trafficking organizations understand that they are to work as prostitutes, but that they are lied to about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or as household servants. Women's rights activists in the states of Para and Maranhao reported that women from these states were recruited actively to work as prostitutes in The Netherlands or Germany, usually for limited periods while remaining legally in those countries with tourist visas. During the first 6 months of the year, police in Spain apprehended 2 Brazilian traffickers and 103 Brazilian victims of trafficking in raids across that country.

Sexual exploitation of children and child prostitution remained a significant problem throughout the country. The CECRIA report released in March indicated that patterns of sexual exploitation of children correspond to the distinct economic and social profile of the country's region. In the northern Amazonian region, sexual exploitation of children centers around brothels that cater to mining settlements. In the large urban centers, children, principally girls, who leave home because of abuse or sexual exploitation often prostitute themselves on the streets in order to survive. In the cities along the northeast coast, sexual tourism exploiting children is prevalent, and involves networks of travel agents, hotel workers, taxi drivers, and others who actively recruit children and even traffic them outside the country. Child prostitution also is developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. In port cities, crews from cargo vessels are a primary clientele. The report notes that although trafficking develops in part to meet the demands of foreigners, the local population sustains it.

In October police in Campo Grande, Mato Grosso do Sul state, arrested three persons accused of running a brothel using girls between the ages of 13 and 16. Four of the girls were Paraguayan. The owners of the brothel allegedly seized the girls' documents to

impede their return home and forged new documents to prove that the girls were over age 18. One of the Paraguayan girls told the police that she was to be auctioned at the brothel the following weekend.

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