

Washington's Annual Report on Brazil's Bad Behavior

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The US State Department has released its annual Country Reports on Human Rights Practices on the eve of president George W. Bush arrival in Brazil. The text related to Brazil is a lengthy analysis containing over 17,000 words in which the US government examines carefully and with a critical eye the behavior of its neighbor to the south.

In dealing with the ethical behavior of Brazilian politicians the document mentions among other stories the one in which top officials at the ruling Workers Party (PT) tried to buy a dossier that would implicate opposition candidates Geraldo Alckmin and José Serra in last year's national elections.

Other items mentioned by the report are the bloody attacks of the PCC, a prison gang, which left dozens of policemen and civilians killed in São Paulo, as a protest for the way they are treated in jail. The document also talks about child prostitution, slave work, police torture, death squads and women trafficking.

Secretary Condoleezza Rice presented the reports saying: "These congressionally mandated annual reports speak to America's continued support for those fundamental freedoms embodied in the Universal Declaration of Human Rights. Our country was born in the belief that all people, regardless of race, creed, or culture are free by nature and equal in dignity; that when given a truly unfettered choice, human beings will choose liberty over oppression, the natural right to life over the constant fear of death, the right to own property over random search and seizure, and that they will choose to be ruled by the consent of the governed, not by the coercion of the state."

Here's the report on Brazil in its entirety:

Brazil is a constitutional federal republic with a population of approximately 188 million. In October voters re-elected President Luiz Inácio Lula da Silva ("Lula") of the Workers' Party (PT) to a second four-year term in a free and fair election.

While civilian authorities generally maintained effective control of the security forces, members of the security forces committed numerous, serious human rights abuses, primarily at the state level.

The federal government generally respected the human rights of its citizens; however, there continued to be numerous serious abuses, and the record of several state governments was poor. The following human rights problems were reported: beatings, abuse, and torture of detainees and inmates by police and prison security forces; inability to protect witnesses involved in criminal cases; poor prison conditions; prolonged pretrial detention and inordinate delays of trials; attacks on the media by local authorities and organized crime; violence and discrimination against women; violence against children, including sexual abuse; trafficking in persons; discrimination against indigenous people and minorities; significant obstacles to persons with disabilities; failure to either apply or enforce labor laws; and child labor in the informal sector. In most cases human rights violators enjoyed impunity for crimes committed.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

There continued to be a high rate of police killings. Police retaliation for São Paulo prison riots exemplified the continued pattern of impunity. Government officials (including the president) acknowledged the continued severity of the problem of unlawful killings by law enforcement officials.

Reports from the Center for Studies of Security and Censorship (CSSC) at Cândido Mendes University estimated that approximately 3,000 persons were killed by police in Rio de Janeiro State during the year.

The São Paulo State Secretariat for Public Security (SPS) reported that São Paulo police (civil and military) killed 328 civilians in the first six months of the year, compared with 178 during the same period of 2005; off-duty policemen were responsible for 31 of the killings.

Incidents of police shootings in São Paulo that resulted in deaths were concentrated in poor neighborhoods at the periphery of the greater metropolitan area. The sharp increase in police attacks occurred between May and August in response to gang violence and prison riots that overtook the city.

The prison-based organized crime group, the First Capital Command or Primeiro Comando da Capital (PCC), organized a series of armed attacks against law enforcement officials, police stations, buses, and bank agencies and organized riots that broke out simultaneously in 71 state prisons. The police launched offensive sweeps in response to the PCC attacks.

From May to August the PCC and the state's security forces engaged in a series of attacks, arrests and reprisals, including the assassination-styled killing of six off-duty prison guards at their homes, and the killing of 13 PCC suspects in a preemptive police operation.

Elements of the PCC or prisoners killed 41 police officers and eight prison guards. Nine inmates were killed in the prison melees. Military and civil police engaged in several armed conflicts with alleged PCC gang members and killed more than 100 alleged PCC suspects.

Human rights organizations claimed that police used excessive force and may have executed innocent victims. Several state agencies launched investigations into the killings, but the state police ombudsman's investigation was inconclusive. Early reports from the medical examiner's office indicated that a significant number of those killed by police appeared to have been shot while on their knees, suggesting street executions.

In a preliminary report dated September 18, the Independent Special Commission for the Public Security Crisis of São Paulo State, consisting of various government human rights councils, the state public prosecutor's office, the police ombudsman, and civil society groups, determined that 493 persons were killed by gunfire in São Paulo State in May, during the 10-day PCC crime wave--nearly twice the average rate. The commission also cited a private analysis of 124 autopsy reports, approximately the same number of suspects reportedly killed by police as cited widely in the press at the time--that concluded that 60 to 70 percent of the cases presented characteristics consistent with execution.

According to the nongovernmental organization (NGO) Global Justice (GJ), the main human rights' problem in Rio de Janeiro State was police violence and impunity. In many cases police officers employed indiscriminate lethal force during apprehensions. In some cases a person's death followed harassment and torture by law enforcement officials (see section 1.c.).

Credible statistics from the Institute of Public Security (ISP) concluded that from January to June, police killed 520 persons in Rio de Janeiro City and 290 in São Paulo.

Numerous credible reports indicated the continuing involvement of state police officials in revenge killings and the intimidation and killing of witnesses involved in testifying against police officials (see section 1.e.). There were also numerous killings of indigenous people, mostly related to land disputes (see section 5) and of rural activists and labor union organizers (see section 6.a.). Amnesty International (AI) and other credible sources indicated that these killings often occurred with the participation, knowledge, or acquiescence of state law enforcement officials.

There were reliable reports of killings of government officials by those who had vested interests in the officials' professional activities. Six of the 10 suspects in the 2004 killing of four Labor Ministry inspectors in Unai, Minas Gerais State, remained in jail pending trial.

The officials had been investigating slave labor practices at local farms. In July one of the two men suspected of ordering the killing, Anterio Manica, was arrested. The other suspect, Norberto Manica, the elected Mayor of Unai, was placed in protective custody in July and released on November 28. Prosecution remained pending at the end of the year.

In Rio de Janeiro, NGOs including AI and GJ called for the Military Police's Special Operations Battalion or BOPE to stop

using caveirões (special armored vehicles). AI received reports of caveirões driving into communities and firing at random.

According to AI, residents reported that from May to September 2005, 11 deaths in Rio de Janeiro's favelas (shantytowns) were linked to the caveirões in Manguinhos, Jacarezinho, and Acari--five on a single day. However, due to the anonymity that the vehicle gives, no police officers were tried for an incident involving a caveirão.

On March 2, authorities in Pernambuco State removed from duty 13 military police officers on charges that they tortured 14 adolescents, two of whom died. According to the survivors, military police stopped them, beat them with night sticks, forced them into a police vehicle and transported them to the Coelho neighborhood where they were tortured under a viaduct and thrown into the river. Twelve swam to the river's edge and two drowned: Diogo Rosendo Ferreira and Zinael José Souza Silva.

On July 17, men near a caveirão shot and killed Sergio Bezerra do Nascimento, as he was walking to work in Favela Acari. The head of the homicide division confirmed that two armored vehicles were operating in the area at the time of the killing but did not confirm any connection to the shooting.

According to the Communications Section of the Military Police Department, only eight officers in the case of 11 military police arrested on suspicion of involvement in at least 26 killings over three years as part of a death squad in Natal, Rio Grande do Norte State, remained in jail at the end of the year. The investigation was ongoing and all involved were still awaiting trial.

Death squads with links to law enforcement officials carried out many killings, in some cases with police participation. The National Human Rights Secretariat reported that death squads operated in 13 states. Credible, locally based human rights groups reported the existence of organized death squads linked to police forces that targeted suspected criminals and persons considered problematic by land owners or "undesirable" in almost all states.

On November 21, the Supreme Court released 17 persons (mostly police) accused of being members of a death squad in Curitiba, Paraná. The group spent almost five years in jail and was released because the prosecutors had not formalized the accusations. While the group was accused of a number of killings, robberies, arms trafficking, and drug trafficking, the court ruled that holding them in prison without charges was a human rights violation.

In August a court convicted and sentenced to 543 years' imprisonment a policeman accused for participating in the March 2005 military police death squad operation in the Baixada Fluminense neighborhood near Rio de Janeiro City that killed 29 persons in drive-by shootings.

Ten other police officers were arrested in April 2005, but only four remained in jail awaiting trial. In October a military policeman cooperating with the investigation was shot to death, a killing that police interpreted as an effort to intimidate those investigating the case. On November 28, the leader of the military police group, Marcos Siqueira da Costa, was stabbed eight times inside his cell.

On their "Map of Violence 2006" the Organization for Ibero-American States (OEI) listed Brazil as number one out of 65 countries in killings by firearms, and number three out of 84 countries for killings by homicide.

AI reported that criminal gangs and drug factions controlled some favelas, particularly in the city of Rio de Janeiro, through intimidation and violence. Lynching was common, especially against those accused of rape or other crimes that went unpunished in these communities due to the absence of state security agents. There were killings by vigilante groups who invaded prisons.

Organized crime attacks against police and civilian targets in Rio de Janeiro City in the four days before New Year's Eve left at least 18 dead and 32 injured, including police, bystanders, and suspects. In one attack, gunmen surrounded and torched an interstate bus with 28 persons, killing seven. Official reports differed on the cause.

The newspaper O Globo reported that various criminal factions coordinated the attacks in reaction to clandestine militias formed by police agents to expel them. O Globo claimed state penitentiary officials had evidence the attacks were in preparation for more than two months.

The State Ombudsman of the Police report indicated that "unknown authorities perpetrated" 82 execution-style killings in São Paulo State.

There were no new developments in the case of former military police lieutenant colonel Waldir Coppetti Neves and five other military police officers, arrested in April 2005, for creating a paramilitary group to target landless rural workers in Paraná State. They were released a few days later but were no longer working for the police. The trial was pending at the end of the year.

In February the São Paulo State Appellate Court absolved retired Military Police Colonel Ubiratan Guimarães in the 1992 Carandiru Prison massacre; in 2001 he had been found responsible for 102 inmate deaths and was sentenced to 632 years in prison. He was freed pending the appeal but was killed in October.

There were developments in the July 2005 killings of four youths in separate municipalities of the greater Rio de Janeiro City of Baixada Fluminense. Leonardo Andre de Túlio and Claudio Andre de Túlio were found dead in Duque de Caxias, and the burned bodies of two other adolescents, Carlos Alberto Ferreira de Paula and Davi dos Santos Matias, were later discovered in Xerém.

Investigators were investigating a possible link between these killings and the killing of Matias' sister, allegedly by local drug traffickers, two weeks earlier. The chief of police in charge of the investigation stated that two of the victims had nothing to do with drug trafficking and indicated that evidence showed that a businessman ordered the killings, which military policemen carried out. The case remained under investigation.

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

According to the local Operational Support and Protection of Human Rights Center, only two of 23 officers determined to be involved in forming a death squad in Curitiba, Paraná State, remained in jail. Civil, military, and former policemen were among those accused and charged with several crimes, including murder and gang formation. The two that remained in prison were Valmor Ferreira Portal and Nizion Ribeiro da Fonseca; the trial was pending.

During the year the Pastoral Land Commission (CPT) reported that from 31 rural workers were killed. From January to August 743 rural workers were imprisoned. The number imprisoned jumped from the previous year largely due to the radical Landless Freedom Movement's (MLST) invasion of the Chamber of Deputies.

The Ombudsman's Office of the Ministry of Agrarian Development reported 78 rural killings during the year: seven as a direct result of land conflict, 25 determined to be unrelated to land conflicts, and 46 under investigation. In 2005, 66 rural killings were reported, 14 of which were directly caused by land conflicts; 34 were determined unrelated to land conflicts, and 18 remained under investigation.

In December 2005 a court convicted and sentenced two people in the February 2005 killings of Catholic nun Dorothy Mae Stang in Pará State, who worked as an advocate for landless persons. On April 24, Amair "Tato" Feijoli da Cunha, the middleman involved in the killing, was convicted and sentenced to 18 years in prison.

During the trial, Cunha implicated Vitalmiro "Bida" Moura and Regivaldo Galvão in ordering the crime and providing the weapon. The Pará State Justice Tribunal announced that Galvão would be tried by a Pará State Tribunal jury and placed him in custody in April 2005, although he was released on June 29; a date for his trial had not yet been announced.

In February 2005 61-year-old environmentalist Dionísio Julio Ribeiro Junior was killed at his place of work, the Rio de Janeiro State "Tinguá" biological reserve, near Rio de Janeiro City. Leonardo de Carvalho Marques, who confessed to the crime, later claimed that he was tortured by police and retracted his confession. In August a court acquitted him. The case remained open, and some allegedly corrupt employees were also under investigation in the case.

In September 2005 state courts received testimony in the 2003 killings of four Landless Movement (MST) members in Foz do Iguacu, Paraná State. The accused were awaiting trial at year's end.

There were no developments in the July 2005 killing of Catholic priest Paulo Henrique Keler Machado. On June 5, military police entered Favela Fazenda das Palmeiras and opened fire on suspected drug dealers. Gunshots exchanged between the drug dealers and the military police killed 17 children in a school caught in the crossfire.

b. Disappearance

There were no reports of politically motivated disappearances at the hands of government officials. However, in São Paulo the PCC (see section 1.a.) kidnapped a television journalist and a cameraman in August. Both were released unharmed within three days, but only after a major television outlet that employed the hostages aired a video-taped manifesto produced by the PCC. Uniformed and civil police involvement in extortion was widespread, throughout the country. Reports of police kidnapping for ransom was not a significant problem during the year.

In August 2005 Rio de Janeiro State authorities arrested civil policeman Adamo Ricardo Fernandes for kidnapping a doctor from Resende, Rio de Janeiro. Investigations into four other alleged kidnappings involving Fernandes are ongoing. According to the chief of police of Resende, Fernandes was discharged from the civil police and was in jail pending trial.

In December 2005 drug traffickers from the Favela Parada de Lucas, dressed in police uniforms, invaded Favela Vigário Geral and kidnapped, tortured, and killed eight young persons (15 to 24 years of age). One resident reported that police provided support for the drug traffickers. According to Rio de Janeiro's Security Secretariat, two drug traffickers were accused of committing the crime and were arrested. They were later released due to lack of evidence. The witnesses and victims did not appear during the first hearing with the judge.

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

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

Although the law prohibits torture and provides severe legal penalties for its use, torture by police and prison guards remained a serious and widespread problem. Federal, state, and military police often enjoyed impunity in cases of torture, as in other cases of abuse (see section 1.e.).

During 2005 the National Movement for Human Rights (MNDH), together with the Chamber of Deputies' Human Rights Commission, reported that police and prison guards were responsible for nearly 80 percent of the reported cases of torture and that most victims were young, poor, Afro-Brazilian men from less-developed regions; it reported an average of 150 cases per month.

During the first half of the year, the São Paulo State Ombudsman's Office received 10 complaints of torture at the hands of police. The NGO Christian Association for the Abolition of Torture (ACAT) received 80 individual complaints of torture at the hands of police or prison officials between January and October. ACAT, and other government organizations generally defined torture narrowly according to the 1997 Law Against Torture.

ACAT's directors noted that reported incidents of "police aggression" were far more numerous than those defined as torture. For example, ACAT investigated several complaints that police inflicted extreme physical harm on individuals in their homes during the course of criminal investigations and determined that these cases did not meet the legal definition of torture.

ACAT also investigated several collective cases of torture in the São Paulo state prison system. In these collective cases, ACAT interviewed inmates complaining of similar abusive treatment at the hands of prison officials and then reported its findings to state authorities when there appeared to be a practice of abuse within that facility.

In a report on the Nestor Camora Prison in Mirandópolis, ACAT interviewed 120 inmates with similar claims. ACAT issued a similar report based on 49 interviews at the Osiris Souza e Silva Prison at Getulina. ACAT's directors reported that complaints of torture in São Paulo's prisons spiked during periods of PCC-related conflicts and the related prison riots (see sec. 1.a).

In January 2005 employees of São Paulo State's juvenile rehabilitations and detention system (FEBEM) reportedly beat and tortured inmates at the Vila Maria unit. Sixteen FEBEM employees were arrested and provisionally imprisoned, while seven evaded arrest; 55 were indicted on charges of torture, failure to prevent torture, and related charges. São Paulo State authorities continued their investigation at year's end.

In March the Paraná State Secretary for Public Security opened an investigation into allegations that officials in the port city of Paranaguá rounded up homeless persons from the streets, ostensibly to move them to a shelter, but instead tortured them and abandoned them on the streets. In October the Municipal Secretary for Public Security in Paranaguá was arrested along with four municipal police officers for suspected torture of homeless persons.

NGOs confirmed that police committed abuse and extortion directed against transvestite prostitutes in the cities of Rio de Janeiro, Belo Horizonte, and Salvador.

On June 26, President Lula created the Brazilian National Committee for the Prevention and Control of Torture, which is headed by the Minister of Human Rights, Paulo Vannuchi, a former political prisoner during the military dictatorship. The same day the government launched a campaign against torture.

The new committee is connected with the Special Secretariat on Human Rights in the Presidency and was to act in cooperation with international organizations and provide incentives for the implementation of its programs. The Committee was also to include academics, NGO representatives, and representatives of the Ministries of Justice and Foreign Relations.

Prison and Detention Center Conditions

Prison conditions throughout the country often ranged from poor to extremely harsh and life threatening. During the year conditions in São Paulo's FEBEM prison and juvenile detention system reached critical stages, as the criminal justice system continued to sentence far more defendants to prison or detention each month than were released. Many inmates were kept beyond their sentences. At the outset of the year prisons in the state of São Paulo held nearly 127,000 adult inmates, which was 20 percent above the design capacity of its prisons.

Prison riots were frequent and violent and often occurred simultaneously, throughout the city. Half of the 141 prisons in São Paulo State erupted in simultaneous riots during the May PCC-led crime wave, and several other prison riots occurred in the state throughout the year that left inmates dead and large portions of the facilities destroyed.

By mid-year São Paulo's governor declared 19 prison units uninhabitable following the worst of the riots, and in a July press interview he noted that approximately 12,000 inmates were living in "precarious" conditions.

In mid-June there were three simultaneous riots in Espírito Santo State where the state government requested the assistance of federal troops. In one of the Espírito Santo riots two persons were killed, one by decapitation, and 265 persons were taken hostage. At the same time in a riot in Rondônia state, 173 persons were held hostage.

Prison officials often resorted to brutal treatment, including torture. Harsh or dangerous working conditions, official negligence, poor sanitary conditions, abuse and mistreatment by guards, and a lack of medical care led to a number of deaths in prisons (see section 1.a.). Poor working conditions and low pay for prison guards encouraged widespread corruption.

Severe overcrowding in prisons and police detention centers was prevalent and was worst in states with the largest prison populations, such as Rio de Janeiro and São Paulo. According to the Ministry of Justice, there were 371,482 prisoners in a system designed to hold 215,003, an overcrowding rate of more than 70 percent. Construction of new penitentiaries continued but was inadequate to alleviate overcrowding.

Prisoners were subjected to unhealthy medical and sanitary conditions. Scabies and tuberculosis, HIV/AIDS, and hepatitis were widespread in São Paulo State prisons. According to local NGOs, infectious diseases reached endemic levels. The HIV/AIDS infection rate among prisoners was between 20 and 30 percent.

The Ministry of Health reported frequent incidence of skin infections, respiratory problems, HIV/AIDS, sexually transmitted diseases, and tuberculosis among the general prison population of São Paulo State. The Catholic Church's Ministry for the Incarcerated in São Paulo reported that in several of the city's police jails, most detainees suffered from skin or respiratory illnesses, and prison administration officials reported that many prisoners who transferred into the São Paulo penitentiary system became infected in police jails. Denial of first aid and other medical care sometimes was used as a form of punishment.

In São Paulo's Araraquara prison, several sections of the facility were destroyed during a series of riots in May and June. In July prison officials squeezed 1,450 inmates into a 90-foot-square open-air yard with surrounding cells designed to hold 150 prisoners. Prison guards welded shut the doors to the yard, food was thrown over the wall, and medical supplies ran short.

The conditions at Araraquara were raised in a September 30 resolution of the Inter-American Court on Human Rights (IACHR) of the Organization of American States (OAS). The IACHR determined that the conditions at Araraquara posed a risk to the health, integrity, and lives of inmates and those conditions could provoke violence. In August the SAP began moving inmates to other facilities under court order.

Overcrowding, poor conditions, prisoner riots, drug abuse, and accusations of sexual abuse and torture, continued to pervade São Paulo's FEBEM system. In April a riot at a facility in the Tatuapé FEBEM complex resulted in injuries to 44 employees and 18 juvenile detainees. São Paulo's government dismantled the facility transferred most of the juveniles to modern facilities reducing the population from 1,200 to 250.

A prosecutor opened investigations into three cases and reported that the youths suffered bruising over their entire bodies consistent with physical abuse by officials or police. The State Assembly's Commission on Human Rights and MNDH lodged with the prosecutor additional complaints of abuses that occurred during the same riot; investigations were ongoing at the end of the year.

On September 13, 14 current and former employees of FEBEM were sentenced to prison for the torture of 35 juvenile detainees in 2000 at the Raposo Tavares and Franco da Rocha facilities in São Paulo. The prosecutor stated that the defendants promoted the use of violence against detainees. The 35 victims were beaten with boards and metal bars.

Two of the defendants were senior officials in the FEBEM system, and each was sentenced to 84 years in prison. Ten additional juvenile monitors were sentenced to 74 years and eight months each, and two facility directors were given sentences of two years and two months for the crime of omission.

In March FEBEM began to close the complex at Tatuapé, the site of abuses and conditions so serious that the OAS issued several statements and resolutions urging the state government to adopt reforms or risk sanctions. The detainee population at Tatuapé was reduced from 1,200 to 500.

In October a São Paulo judge estimated that between 1 and 3 percent of juveniles detained in the FEBEM system, or approximately 500 persons, had some form of mental illness but were not treated separately from the main populations. Riots and escapes continued to occur at FEBEM facilities, particularly during the first half of the year, and usually resulted in the deployment of Prison Authority and Military Police tactical shock units to quell the unrest and restore order.

FEBEM officials stated that the state would build 45 new units designed to house 40 detainees each in 2007.

After the IACHR denounced the prison conditions at the Polinter jail in November 2005, the jail was deactivated on January 30.

In June Human Rights Watch (HRW) issued a report regarding the abuses and poor health and sanitary conditions in juvenile detention centers in Rio de Janeiro State. HRW found that in most cases the abusers were juvenile detention center guards, who were rarely punished. No juvenile detention center guard in Rio de Janeiro State has ever faced criminal charges for abusive conduct.

Although Socio-Educational Action (DEGASE) Director for Rio de Janeiro State Sergio Novo disputed the report's findings since some facilities had been repaired since HRW earlier investigations, HRW found that physical and mental abuse continued and that living conditions in some of the centers had worsened. During the year the Father Severino Institute (IPS) for incarcerated youth in the Ilha do Governador neighborhood in Rio de Janeiro City holds 368 minors in a facility designed to hold 160.

The Center for Specialized Treatment of Juveniles (CAJE) in Brasilia, Federal District, held 294 youths in a facility designed to hold 196. The staff included 17 guards, two doctors, a nurse, a psychiatrist, 13 psychologists, 46 social assistants, and some teachers.

Of the total number of detainees, 11 females were held in separate living quarters. Local critics reported understaffing, violence, and unsatisfactory treatment of those with mental disabilities at CAJE. In February the IACHR published a report that criticized CAJE for its management of the facility, the illegal transfer of detainees, and poor hygiene and sanitary conditions.

The IACHR advised CAJE to hire more security guards, improve health conditions, discontinue housing more than 40 detainees per unit, and separate detainees based upon the seriousness of their crimes.

Rio de Janeiro and São Paulo states provided separate prison facilities for women; elsewhere, women were held with men in some facilities. Male officers, who served in women's prisons, often abused and extorted the prisoners for sexual favors. The administrative director for the Secretariat for São Paulo City Administration reported that approximately 5 percent of prison guards in women's prisons were men. In only two Rio de Janeiro State police districts were women held in gender-segregated, short-term jail facilities.

São Paulo State made improvements to its women's prisons during the year. Reconstruction of parts of the Women's Prison at Sant'Ana, within metropolitan São Paulo, included a state-of-the-art kitchen facility and new privacy rooms and equipment for visitor searches.

Several businesses established enterprises within the prison where inmates earned money and credit against their sentence for each day worked, and the women were able to acquire machinery, piecework, and assembly skills. A school within the prison also provided rudimentary education, and the prison at Sant'Ana was generally maintained at or below

its designed population capacity.

On occasion juveniles were held together with adults. In March 2005 authorities temporarily transferred 400 FEBEM detainees to the adult prison facility at Tupi Paulista in São Paulo State.

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

On October 18, the IACHR sent a letter to the government asking it to protect "the life and health of those deprived of liberty" due to the jail conditions in Niterói. The IACHR criticized the federal as well as the state governments for the deplorable conditions and urged the government to reduce the population and provide medical attention, water, and light to the inmates.

The case was brought against the government by the Association for Prison Reform (ARP), GJ, Torture Never Again Group (Grupo Tortura Nunca Mais), Association of Public Defenders for Rio de Janeiro State, and Violence Analysis Laboratory of the University of the State of Rio de Janeiro (UERJ). The commission ordered the government to take measures to protect life, health, and physical integrity in the prison.

It also ordered prisoner transfers, substantially reducing the overpopulation, providing proportional medical care particularly to those with serious health issues, exhaustively investigating the claims of human rights abuses including identifying those responsible and coordinating compliance of these actions with the organizations that reported the situation.

It is government policy to permit prison visits by independent human rights observers, and state prison authorities generally followed this policy in practice. Ministry of Justice officials offered full cooperation to AI, which reported no significant problems in gaining access to state-run prison facilities. GJ reported that the level of access to prison facilities varied from state to state.

In São Paulo and Rio de Janeiro states, GJ found it difficult to gain access, especially in the Ary Franco and Água Santa prisons. São Paulo State also employed committees of community leaders to monitor prison conditions. The Catholic Church's ministry for the incarcerated in São Paulo reported occasional difficulties in entering prisons. São Paulo State, like Paraná and Rio Grande do Sul states, also had a prison ombudsman program. According to a former state ombudsman, the prison system was understaffed, and the investigators of complaints were often the accused perpetrators.

In October human rights advocates in São Paulo State, including those who sit on a state governmental council, complained that the state government would no longer permit them entrance to FEBEM facilities for inspections or to meet with detainees.

This followed remarks made by the governor in April in which he accused "external groups," who ostensibly work to promote human rights, of agitating juvenile detainees and inciting them to riot. Further, in May human rights groups alleged that the investigation by São Paulo State Civil Police (the primary investigative police force for the state) of Conceição Paganele, the President of the Association of Mothers of FEBEM Detainees (AMAR), amounted to persecution.

The groups alleged that Paganele was being harassed because of her involvement in the OAS investigations. Press reports quoted the civil police as suggesting she was suspected of forming a gang, facilitating the escape of detainees, and inciting crimes.

d. Arbitrary Arrest or Detention

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

During the year cases of arbitrary arrest or detention across São Paulo State focused on the waves of violence orchestrated by the prison-based criminal organization PCC (see section 1.a.). During the 10-day period, May 12-22, which represented the most intense period of violence, the state Secretariat of Public Security reported arresting 125 persons suspected of involvement in the hundreds of firearm and homemade bomb attacks across the state, but details were not forthcoming about their subsequent incarceration or about what charges if any were filed and what prosecutions were pursued.

Role of the Police and Security Apparatus

The federal police force, operating under Ministry of Justice oversight, is small, primarily investigative, and plays a minor role in routine law enforcement. Most police forces fall under the control of the states, where they are divided into two distinct units: the civil police are plainclothes officers with an investigative role, while the military police are the uniformed officers charged with maintaining order.

Although the individual state governments control their respective military police forces, the constitution provides that they can be called into active military service in the event of an emergency, and they maintained some military characteristics and privileges, including a separate judicial system (see section 1.e.).

On February 2, the Rio de Janeiro State Ombudsman's Office released a report that showed that of 8,330 military and civilian police accused of being involved in some type of crime, only 16 were fired. Of the 8,330 police accused, none were exonerated. The ombudsman's office also reported that 15 to 20 percent of all police officers had formal complaints filed against them. Among the complaints were excessive violence, extortion, abuse of power, and not doing police work.

On December 15, in Muquico, a favela in Rio de Janeiro's Northern Zone, federal police arrested 75 military police suspected of being involved in drug trafficking, 40 of which belonged to a single crime organization. The federal police indicated that at least 450 military police were suspected of being in collusion with traffickers.

On February 7, the Organized Crime Repression Unit indicted 24 persons, including 17 law enforcement officers, for their involvement in the "Slot Machine Mafia" in the West Zone of São Paulo city.

On March 6, the army occupied nine Rio de Janeiro favelas with more than 1,500 armed soldiers in search of stolen arms; a 16-year-old boy was killed in the crossfire. By March 12, citizens organized protests claiming excessive use of force.

In August the first of 11 military policemen accused of participating in the March 2005 massacre of 29 persons was convicted and sentenced to 543 years in prison (see section 1.a). The massacre was seen as a response to a government initiative "Dagger in the Flesh" to address police corruption and killings. In October a military policeman cooperating with the investigation was shot to death; police suspected that other officers killed him in an attempt to intimidate public attorneys investigating this case.

Arrest and Detention

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

Although warrants generally were based on sufficient evidence and issued by a judge, the NGOs MNDH and GJ reported that, at times, warrants were issued arbitrarily, depending on the judge and the region of the country. GJ also reported that, in Rio de Janeiro and São Paulo states, public and NGOs pressure caused many judges to stop issuing "collective" search and arrest warrants that permitted the police to search entire neighborhoods in poor areas.

The authorities generally respected the constitutional right to a prompt judicial determination of the legality of detention. Detainees generally were informed promptly of the charges against them. The law permits provisional detention for up to five days under specified conditions during a police investigation, but a judge may extend this period.

A judge may also order temporary detention for an additional five days for paperwork processing. Preventive detention for an initial period of 15 days is permitted if the police have indications that a suspect may leave the area. This can be renewed under specific circumstances. Occasionally detainees--typically poor and uneducated--were held longer than the provisional period.

In criminal cases defendants arrested in the act of committing a crime must be charged within 30 days of their arrest. Other defendants must be charged within 45 days, although this period could be extended. In practice the backlog in the courts almost always resulted in extending the period for charging defendants.

Bail was available for most crimes, and defendants facing charges on all but the most serious crimes had the right to a bail hearing.

In general prison authorities allowed detainees prompt access to a lawyer, and if indigent, to one provided by the state. Detainees were also allowed prompt access to family members.

Human rights observers stated that civil and uniformed police regularly detained persons illegally to extort money or favors. Between January and June the São Paulo State Ombudsman's Office received 17 complaints of extortion, compared with 23 complaints during the same period in 2005.

As of June the Ministry of Justice reported that nationwide 102,958 of 371,482 detainees in prisons and jails awaited sentencing. An additional 60,792 were detained in jails. The law provides for a maximum number of days for pretrial detention, but the period was usually extended because of individual circumstances.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice; however, the judiciary was underfunded, inefficient, and often subject to intimidation and political and economic influences, particularly at the state level, a situation that occasioned vigilante action (see section 1.a.). A number of senior judges remained under investigation nationwide on a variety of charges.

Although the law requires that trials be held within a set period of time from the date of the crime, the nationwide backlog in state and federal cases frequently led courts to dismiss old cases unheard.

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

Trial Procedures

The right to a fair public trial as provided by law generally was respected in practice, although in some regions--

particularly in rural areas--the judiciary was less professionally capable and more subject to external influences. Similarly, when cases involved gunmen hired by landowners to kill land activists or rural union activists, local police often were less diligent in investigating, prosecutors were reluctant to initiate proceedings, and judges found reasons to delay (see section 1.a.).

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

Defendants have the right to confront and question witnesses, enjoy a presumption of innocence, and have a right to appeal. At the appellate level, a large case backlog hindered the courts' ability to ensure fair and expeditious trials. Any defendant sentenced to 20 or more years in prison has the right to an automatic retrial.

While the law provides for the right to counsel, the Ministry of Justice estimated that 85 percent of prisoners could not afford an attorney. In such cases the court had to provide a public defender or private attorney at public expense. In February the National Council of Justice (CNJ) requested that the president restructure the public defender system, which had only 111 positions when its workload required 1,200.

A report by the CNJ in February showed that the average number of cases per state judge nationwide was more than 3,000, but in São Paulo State the number was more than 9,000.

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

The law mandates that special police courts exercise jurisdiction over state uniformed (military) police except those charged with "willful crimes against life," primarily homicide. In all but the most egregious cases, police tribunals decided whether or not the killing was willful.

As a result the civilian courts received very few case referrals involving police killings. The special police courts are separate from the courts-martial of the armed forces, except for the final appeals court. There were few convictions in these courts. Police were reluctant to investigate fellow officers (see section 1.d.).

Police officers accused of crimes less serious than willful murder are prosecuted in special military tribunals. Civilian courts have jurisdiction over police murder, but the requirement that the initial investigation be carried out by police internal affairs officers increased the potential for long-languishing investigations (see section 1.e.).

The police themselves were often responsible for investigating charges of torture carried out by fellow police officers. The problem remained most pervasive at the state level. Long delays in the special military police courts allowed many cases

of torture and lesser charges to expire due to statutes of limitations (see section 1.e.).

Political Prisoners and Detainees

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

Civil Judicial Procedures and Remedies

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

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

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

Section 2 Respect for Civil Liberties Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

Privately owned newspapers, magazines, and a growing number of online electronic publications vigorously reported and commented on government performance. Both the print and broadcast media routinely discussed controversial social and political issues and engaged in investigative reporting.

Criminal as well as other elements, such as political party activists, subjected journalists to violence, sometimes specifically because of their professional activities.

On October 31, Veja magazine accused the federal police of intimidating three of its journalists during testimony regarding leaks of restricted information regarding federal investigations. Federal police officials denied any intimidation or coercion against the journalists. An editorial in the newspaper Folha, titled "Truculence Is Back," criticized the "campaign to intimidate the free press and hamper the right of information".

On November 8, journalist and newspaper editor Fausto Brites was sentenced by the state court in Mato Grosso do Sul to 10 years in prison for defamation. The charges were brought against him by Governor-elect Andre Puccinelli for accusations of corruption as mayor of Campo Grande. Brites appealed to a federal court, and the appeal was pending at year's end.

Internet Freedom

There were generally no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

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

c. Freedom of Religion

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

Societal Abuses and Discrimination

According to the country's Israeli Confederation, there were approximately 160,000 members of the Jewish community: 35,000 in Rio de Janeiro City, 29,000 in São Paulo City, and smaller communities in Porto Alegre, Bahia, Belém, and Manaus. During the year there were signs of increasing violence against Jews. Leaders in the Jewish community expressed concern over the continued appearance of anti-Semitic graffiti, harassment, vandalism, and threats via telephone and e-mail.

In May 2005 four skinheads were arrested and charged with attempted murder, gang formation, and racism for attacking three Jewish students in Porto Alegre, Rio Grande do Sul State. During the investigations, the police identified a second group, with fascist orientation that participated in the attacks.

Eventually, an additional 10 persons were arrested and charged with three crimes: attempted homicide, gang formation, and racism; one person under the age of 17 also was arrested. Testimony on their case began in May, but at year's end no trial had been scheduled.

In March an anti-Semitic Web site, which had been closed by the Federal Public Ministry in April 2005, reopened. The site recorded more than 100,000 hits per month in the country and remained open for the duration of the year.

On August 5, approximately six persons threw stones and two home-made bombs at the synagogue of the Sociedade Israelita Brasileira Beth Jacob in Campinas (60 miles north of São Paulo), damaging the main entrance. Neighbors responded and extinguished the resulting fire. The attackers also painted "Lebanon, the true Holocaust" on the sidewalk outside. The case remained open at the end of the year with no suspects.

Media reported that a São Paulo Jewish community leader received death threats in late July; police provided him personal protection. As was the case in the August 5 synagogue attack, both incidents appeared to be in reaction to the July-August conflict involving Israel and Lebanon.

Thirteen neo-Nazi group members, arrested in October 2005 on charges of attempted murder and racism offenses, remained under preventive detention in Curitiba.

The investigation in the 2004 defacing of the Congregation Beth Jacob synagogue in Campinas, São Paulo State, was closed during the year due to insufficient evidence.

On April 24, Amair "Tato" Feijoli da Cunha, the middleman involved in the killing of Catholic nun Dorothy Mae Stang, who worked as an advocate for landless persons in Pará State, was convicted and sentenced to 18 years in prison (see

section 1.a.).

For a more detailed discussion, see the 2006 International Religious Freedom Report.

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

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

On September 29, authorities confiscated the passports of two US citizens, airplane pilots Joe Lepore and Jan Paladino, following a plane crash. This sparked international condemnation by pilot associations. Neither pilot had been charged with a crime or permitted to leave the country for 71 days. Later a federal appellate court overturned a lower court decision and ordered the passports returned. The pilots returned to the United States on December 9.

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

Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice, the government provided protection against refoulement, the return of persons to a country where they feared persecution.

The government granted refugee status or asylum and resettled 3,271 refugees during the year. However, according to the National Committee for Refugees (CONARE), approximately 200,000 immigrants lived clandestinely in the country, mostly in the Amazon. Although these 200,000 were considered illegal immigrants, a significant number of them had been displaced by conflicts, such as the FARC in Columbia or difficulties in their countries of origin.

The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The government cooperated with the Office of the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

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

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

Elections and Political Participation

In the October 29 national elections, PT candidate Luiz Inácio Lula da Silva won a second four-year term with almost 61 percent of the vote in the second-round runoff. The elections were considered generally free and fair. Election observers from nine countries and two international organizations observed first-round voting on October 1. Election observers from six countries and one international organization observed second-round voting on October 29.

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

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

Government Corruption and Transparency

Ethical behavior of public figures continued to be a major issue during the year. The NGO Transparency International's index indicated a serious and deteriorating perceived corruption problem.

Corruption scandals involving alleged kickbacks and abuse of power at the Ministry of Health, Senate, and Chamber of Deputies affected the government during the year. A congressional inquiry of taking kickbacks accused 69 federal deputies and three senators. On September 25, federal police indicted a former health minister on corruption charges. Senior members of the president's re-election campaign with close ties to the president resigned or were fired in mid-September over their involvement in an attempt to purchase and disseminate a dossier of ostensibly damaging information about a political opponent, and a congressional committee and the Superior Electoral Tribunal opened investigations that continued until year's end. President Lula spoke publicly against corruption in government.

In February in Pará State, former state judge Ana Tereza Sereni Murrieta was sentenced to 12 years in prison, pending appeal, for diverting judicial account money from 157 accounts in the amount of \$1.4 million (three million reais).

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

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

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

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

The Chamber of Deputies also has a human rights commission that operated without interference and participated in several activities nationwide in coordination with domestic and international human rights organizations.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law prohibits domestic violence, and the government took steps that specifically addressed violence against women and spousal abuse. Domestic violence remained both widespread and underreported; on August 7, President Lula signed the "Law of Domestic and Family Violence." The law triples previous punishments for those convicted of such crimes and also creates special courts in all states to preside over these cases. It is also the first official codification of domestic violence crimes.

UN Special Rapporteur Leandro Despouy noted a tendency to blame the victims of these offenses. According to government officials and NGO workers, the majority of criminal complaints regarding domestic violence were suspended inconclusively.

The government acted to combat violence against women. Each state secretariat for public security operated delegacias da mulher (DEAM). These police stations are dedicated exclusively to addressing crimes against women. The quality of services varied widely, and availability was particularly limited in isolated areas. The stations provided psychological counseling, temporary shelter, hospital treatment for victims of domestic violence and rape (including treatment for HIV and other sexually transmitted diseases).

The stations also provided assistance to prosecution of criminal cases by investigating and forwarding evidence to the courts. According to the Ministry of Justice, while many of the DEAMs fell far short of standards and lacked strategies to protect victims after the reports were filed, they nevertheless served to raise public awareness of crimes against women.

In July the first DEAM in Rio de Janeiro reported that it registered 22 complaints daily. The DEAM noticed an increase in violent cases reported from 5,169 in 2001 to 8,049 in 2005. In March the Women's Station in the Federal District reported 4,561 violent cases reported in 2005, representing a 12.5 percent increase from the year before. During the year, the DEAMs registered a total of 16,564 complaints in the city of Rio de Janeiro. Edna Araújo, Chief and Coordinator for Police Affairs, reported that the large increase in comparison to 2005 was due to the increase in number of new DEAMs opened during the year.

On January 31, hundreds of women in Recife demonstrated, protesting against violence against women. More than 36 women were killed in the city during January.

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

The federal government continued to operate a toll-free hotline to address complaints of violence against women. The law requires health facilities to contact the police regarding cases in which a woman was harmed physically, sexually, or psychologically.

Rape, including spousal rape, is a crime punishable by eight to 10 years' imprisonment; however, men who killed, sexually assaulted, or committed other crimes against women were unlikely to be brought to trial.

While adult prostitution is legal, various associated activities, such as operating a brothel, are illegal. While no specific laws address sex tourism, it is punishable under other criminal offenses, such as pedophilia and corruption of minors. The government released a "code of conduct to combat sex tourism and sexual exploitation" and conducted campaigns in the most affected areas.

The states of Pernambuco, Espírito Santo, Amazonas and Paraná and the Federal District enacted laws requiring certain businesses to display signs listing the penalties for having intercourse with a minor. Rio de Janeiro and Bahia states had previously enacted similar legislation. Women's groups reported that prostitutes encountered discrimination

when seeking free medical care. Trafficking of women for the purpose of prostitution was a serious problem (see section 5, Trafficking).

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

Women enjoy the same legal rights as men. A cabinet-level office, the Secretariat for Women's Affairs, oversees a special secretariat that has responsibility to ensure the legal rights of women. Although the law prohibits discrimination based on gender in employment and wages, there were significant wage disparities between men and women.

On November 21, the World Economic Forum released a study indicating that the country had virtually eradicated gender differences in education and health treatment but that women still lagged behind in salaries and political influence. According to the Labor and Employment Ministry, women were paid 30 percent less than men.

In 2005 UN Special Rapporteur Despouy noted a strikingly low level of women's representation in the judicial system, where women occupied "only 5 percent of the top posts in the judiciary and the Public Prosecutor's Office."

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

Children

The government continued its commitment to children's rights and welfare, but millions of children suffered from the poverty afflicting their families, worked to survive, and failed to get an education. The law provides that children age six and under receive free daycare and schooling, which is also free and compulsory between the ages of seven and 14.

On February 6, President Lula approved legislation changing the duration of obligatory primary education from eight years to nine years by 2010. Between the ages of 15 and 17 education is free but not compulsory. Schooling was available in all parts of the country, although not every school had space for every child who wanted to attend. Girls and boys attended school in comparable numbers, although a UN Children's Fund (UNICEF) report indicated that a higher percentage of boys than of girls were not in school.

While it recorded generally high vaccination and immunization rates for one-year-olds, UNICEF noted that the child

mortality rate (at 29 per 1,000 live births) remained "disproportional to national production capacity and available technology." According to Human Rights Watch, girls often lacked basic medical care and had fewer opportunities than boys to receive exercise, recreation, and participate in other activities. NGOs believed that the actual mortality rate was much higher in poorer areas due to this registration problem.

While the law prohibits subjecting any child or adolescent to any form of negligence or abuse, such abuse was a major problem. According to the Special Secretariat for Human Rights' Infancy and Adolescence Information System, physical and psychological aggression was a major problem, with more than 29,000 complaints recorded in this category.

Allegations of abuse of minors and prosecution of crimes against children were not pursued adequately or aggressively. In February 2005 UN Special Rapporteur Despouy reported "a strong sense of impunity for crimes against children and young persons," mainly in the areas of death squad killings and sexual exploitation and abuse.

The legal minimum age for marriage of men and women is 18; those 16 and 17 can marry with parental consent. Underage marriage was not a significant problem.

Extreme poverty was the primary contributor to child prostitution. On March 20, an investigation was released by the University of Brasilia, the National Secretariat for Human Rights, and UNICEF found commercial sex involving children and adolescents in 927 of 5,561 municipalities. The majority of these cases occurred in the Northeast (31 percent of cases nationwide), but all areas of the country had reported incidents.

In May the Human Rights Commission of the Chamber of Deputies denounced a child prostitution network in Pará State with involvement of two aldermen of the area, Roberto Alan de Souza Costa and Adson de Azevedo Mesquita. Also suspect was the son of the mayor of Portel, Roberto Lobato da Cruz. The commission recommended their removal from public office. There are accusations by the local chapter of the national bar association that the police were complicit. A formal trial was pending.

During the year there were 248 cases of sexual abuse cases involving minors in Pernambuco State. According to the National Secretariat for Human Rights, other states recorded the following number of reports of sexual abuse during the year: São Paulo, 487; Rio de Janeiro, 348; Rio Grande do Sul, 249; and Minas Gerais, 407.

On February 21, federal police participated in an international operation involving 30 countries aimed at disrupting pedophilia on the Internet.

At year's end Anderson Luis Juliano Borges Costa, who was arrested in July 2005 in Volta Redonda, Rio de Janeiro State, on charges of sexually abusing more than 20 children, remained in jail pending trial.

On October 26, Francisco Chagas, thought to be the country's worst serial killer, was sentenced to 20 years in prison for

killing one of 42 boys. Police arrested Chagas in 2003 on charges of molesting, murdering, and mutilating the boys in the northwestern states of Maranhão and Pará.

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

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

A July 2005 study by the Institute of Applied Economic Policy reported that more than 100,000 children and adolescents were living in public shelters. The leading causes for displaced children were poverty, abandonment, domestic violence, and drug abuse by parents or guardians. The IPEA report also revealed that in more than half of the cases, children were living in shelters due to the parent's belief that the child would receive better care there than at home.

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

The primary program to assist child victims of commercial sexual exploitation is the Sentinel Program, which establishes local reference centers to provide victims with psychological, social, and legal services, and raises awareness through informational campaigns, workshops, and partnerships

Trafficking in Persons

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

In June the UN Office on Drugs and Crime (UNODC) reported that Brazilian women were among the primary victims of international trafficking entering the sex industry in Europe. Women were trafficked from all parts of the country. The government reported that trafficking routes existed in all states and the Federal District.

Predominantly young women and girls were trafficked overseas for prostitution, although in October federal police disrupted an international transvestite trafficking ring recruiting out of three states. Young men and boys were primarily trafficked internally as slave laborers.

Although comprehensive government statistics on the problem were unavailable, authorities estimated that thousands of women and adolescents were trafficked, both domestically and internationally, for commercial sexual exploitation. NGOs

estimated that 75,000 women and girls, many of them trafficked, were engaged in prostitution in neighboring South American countries, the United States, and Western Europe.

Internal trafficking of rural workers into forced labor schemes was a serious problem, while trafficking from rural to urban areas occurred to a lesser extent. According to the International Labor Organization (ILO), an estimated 25,000 victims, mostly men, were trafficked within the country or forced into agricultural labor. Union leaders claimed that nearly all persons working as forced laborers had been trafficked by labor recruiters (see section 6.c.).

Labor inspectors found a small number of persons from other countries trafficked to work in urban sweatshops. Labor recruiters generally recruited laborers from small municipalities in the North and Northeast and transported the recruits long distances to ranches and plantations in remote areas in the central part of the country. Most internally trafficked slave laborers originated from Maranhão and Piauí states, while Pará and Mato Grosso states received the highest number of internally trafficked slave laborers.

Internal trafficking supplied forced labor, primarily from urban to rural areas, for agricultural work and commercial sexual exploitation. This typically occurred when employers recruited laborers from poor, rural towns and transported them to remote areas where escape was difficult.

Workers then were obliged to toil in brutal conditions until they were able to repay inflated debts. Sex tourism existed throughout the country but was most apparent in coastal resort towns in the Northeast, South, and Southeast, and such major tourist destinations as Rio de Janeiro and Fortaleza, Ceará, as well as in the popular fishing areas of the Pantanal and Amazon.

According to the Reference Center on Children and Adolescents (CECRIA), patterns of sexual exploitation of children corresponded to the distinct economic and social profiles of the country's regions. In the Amazon region, sexual exploitation of children took place in brothels that catered to mining settlements.

In large urban centers, girls who left home to escape abuse or sexual exploitation often prostituted themselves on the streets to survive. In the cities along the northeast coast, sexual tourism exploiting children was prevalent and involved networks of travel agents, hotel workers, taxi drivers, and others who actively recruited children and trafficked them outside the country. A study by the University of Brasilia found that 398 of the 1,514 tourist destinations frequented by citizens had an active sexual commercial market for children and adolescents.

Child prostitution also developed in the areas served by the country's navigable rivers, particularly in ports and at international borders. NGOs estimated that approximately 500,000 children were involved in prostitution.

CECRIA found that the typical sex trafficking victims were darker-skinned women between 15 and 27 years of age, but researchers also noted the presence of adolescent boys as victims, some of whom worked as transvestites. Persons exploited in trafficking schemes typically came from low-income families and usually had not finished high school.

Traffickers often lured victims with promises of lucrative work as dancers or models in Europe; beauty contest winners were cited as common targets. Girls were recruited at clubs and modeling agencies or through the Internet, want ads, mail-order bride schemes, and maid and au pair services. Most women who were trafficked internationally were older than 18, but younger victims were also trafficked with falsified documents.

Police officials believed that some women who were recruited by trafficking organizations understood that they were to work as prostitutes, but they did not know about working conditions and their prospective earnings. In other cases women were told that they would work as nannies or domestics.

Upon arrival, the victims' passports often were confiscated, and they were forced to prostitute themselves and live in virtual confinement. In addition to threatening physical violence, traffickers often used debt and isolation to control the victims. Trafficking in persons was linked to international networks of crime, including drugs and arms trafficking and money laundering.

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

Violators of antitrafficking laws rarely received criminal penalties because of the limitations of the statutes. According to the National Secretariat of Justice, seven individuals were sentenced for trafficking in persons during the year; however, through one single process in Rio Grande do Norte a trafficking gang of 14 persons were convicted as follows: two persons for international and internal trafficking in persons, five for internal trafficking in persons, and the other seven for related crimes such as money laundering and criminal association.

Federal police launched six operations to curb international trafficking, which resulted in the arrest of 38 individuals for international trafficking in persons. In June the Civil Police launched "Operation Navalha na Carne" in the state of Paraná, which resulted in the arrest of 20 persons for sexual exploitation of children and adolescents, 12 of these being officers of the civil police.

In March federal police worked with Swiss authorities in Operation "Taro" breaking a route that had trafficked approximately 300 women from Minas Gerais to work as sex slaves in Switzerland. The federal police stated that the women had been given false promises and had been forced to prostitute themselves for 16 to 18 hours per day. Many were violently abused, and some were sold to other Swiss brothels.

Police officers reported difficulty in arresting traffickers because of the need to apprehend them in the act of traveling with the victims. According to police, some women who left the country with traffickers did so willingly. Fear of reprisals also kept victims from seeking police intervention or from testifying against traffickers. In addition, "trafficking in persons" is a new legal concept, and courts often misclassified such cases. As a result of these factors, numbers of convictions were low.

In October an appeals court reduced the fine imposed in February 2005 on Federal Senator João Ribeiro for forcing 38 workers to live in slave-like conditions; the fine was reduced from \$341,000 (730,000 reais) to \$35,500 (76,000 reais).

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

Several government programs assisted victims of trafficking, although efforts often were inconsistent and underfunded. The government cooperated with a number of shelters or health care facilities specifically dedicated to trafficking victims, and workers at more than 600 victim assistance centers were trained to assist trafficking victims.

The Ministry of Social Assistance operated more than 400 centers to assist victims of sexual abuse and exploitation and domestic violence. NGOs provided victim assistance in job training, counseling, and other community reintegration assistance. Locally based NGOs assisted trafficking victims with retraining and counseling activities.

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

The National Human Rights Secretariat conducted antitrafficking information campaigns. The National Secretary for Justice continued to lead a government public awareness campaign to deter international traffickers and sensitize their potential victims to the dangers.

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

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

The 2004 Federal District court case against the former speaker of the Federal District's legislative chamber, Benício Tavares, on charges of forced prostitution and sexual exploitation of minors was reviewed by the Ethics Commission of the Brazilian House of Representatives on March 23. The commission decided not to take action. The trial remained pending at the end of the year.

Government authorities responsible for combating trafficking included various agencies of the Ministry of Justice (including the federal police), the Special Human Rights Secretariat, the Ministry of Labor and Employment, the Ministry of Tourism, and the Ministry of Social Assistance.

The federal highway police were responsible for checking documents and monitoring movement along highways and roads; occasionally they were involved in apprehending suspected traffickers. Federal and state police monitored the Internet to detect on-line recruitment by sex traffickers. Operating under the National Justice Secretariat trafficking offices in São Paulo, Rio de Janeiro, Ceará, and Goiás states monitored domestic and international trafficking.

During the year the Ministry for Agrarian Development reported that from 1995-2006 the government had rescued almost 21,000 slave laborers. More than 15,000 were rescued between 2003 and the end of the year. The report also indicated that through 2005, these workers received \$10.2 million (21.9 million reais) in indemnities from their former captors, \$8.6 million (18.5 million reais) of which was paid from 2003-05. During the year, however, only 3,252 were rescued and \$2.8 million (six million reais) was paid as indemnities, according to the Ministry of Labor and Employment (MTE).

On February 7, the Regional Tribunal of Labor of Maranhão charged Federal Deputy Inocêncio Oliveira with a second count of keeping slave laborers. He was sentenced to pay \$61 (130 reais) per day per exploited worker from when the workers were found in 2002.

On August 2, the Labor Ministry released its "dirty list" containing 178 names of persons that exploited labor, including Federal Senator João Ribeiro, convicted of maintaining forced labor, and landowner Vitalmiro Bastos de Moura, accused of ordering the killing of American nun Dorothy Stang (see section 1.a.).

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the federal government effectively enforced these provisions. However, state governments failed to meet legally mandated targets for educational opportunities and work placement.

While the law has provisions to ensure access to buildings for persons with disabilities, states do not have programs to enforce these provisions effectively. During the year, however, the pharmaceutical industry in São Paulo State identified positions that could be filled by persons with disabilities and partnered with individuals who could be trained to fill these positions by 2008.

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

While the São Paulo State labor code requires that meeting places for more than 100 persons or other facilities for 600 persons or more provide modified entrances and other accommodations for persons with disabilities, such persons had difficulty in securing necessary accommodations.

There were 237 psychiatric hospitals with more than 48,000 patients in the country. In 2005 the Municipality of Rio had 39,321 patients in psychiatric facilities, but most facilities lacked beds, medicines, and staff. In one facility two psychiatrists were responsible for 83 patients.

National/Racial/Ethnic Minorities

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

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

Afro-Brazilians, representing 45 percent of the population, were significantly and pervasively underrepresented in professional positions and in the middle and upper classes; they experienced a higher rate of unemployment and earned average wages approximately half those of a white person. The UN Special Rapporteur on the Judiciary noted in 2005 that persons of African descent occupied less than 1 percent of the senior posts in the judiciary and the Public Prosecutor's Office.

There was also a sizeable racial education gap. According to the Education Ministry, Afro-Brazilians received an average of 5.3 years of schooling compared with 7.1 years for whites. Afro-Brazilians constituted 16 percent of the university population.

Major public universities in the states of São Paulo, Rio de Janeiro, Paraná, Mato Grosso, Bahia, and the Federal District of Brasilia maintained affirmative action programs; for instance, the University of Brasilia set aside 25 percent of its first-year vacancies for self-declared students of color. During the year the Palmares Foundation noted that more than 30 universities had voluntarily implemented a quota system.

In October the Health Minister Agenor Álvares acknowledged clear signs of discriminatory practices within the national health system.

During the year Afro-Brazilians made up 56 percent of the prison population.

On November 18, the OAS Human Rights Committee criticized the failure to prosecute a woman who advertised a domestic work position with an ad clearly stating that "white" candidates would be given preference. Domestic worker Simone Andre Diniz reportedly applied for the job and was turned down for not being white, and when she brought the case before the police in 1997, it was filed away without being prosecuted.

Indigenous People

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

The country has an indigenous population close to 460,000 persons belonging to 225 "nations." The government estimated that more than half of indigenous people lived in poverty in communities whose traditional ways of life were threatened on a variety of fronts, including land development, agricultural expansion, and mining.

The National Foundation of the Indigenous (FUNAI) reported that indigenous people faced many problems, including disease and poor health care, loss of native culture, and recurring incursions as well as illegal mining and extraction activities on indigenous lands. In addition threats also came from road construction and deforestation.

In April FUNAI hosted in Brasilia the first National Conference on Indigenous Peoples. More than 800 indigenous persons representing more than 220 indigenous groups attended with proposals from delegates to create a new indigenous policy in a democratic forum.

The conference participants offered 1,300 proposals; primary among these was the proposal for the government to create a ministry of indigenous peoples headed by an indigenous person that could centralize actions on education, health, agricultural questions, culture, and sustainable development.

The Missionary Indigenous Council (CIMI) criticized the event claiming that several participants were connected with government organizations and that professional organizations dealing with indigenous issues were not invited.

Indigenous leaders and activists complained that indigenous persons had only limited participation in decisions taken by the government affecting their land, cultures, traditions, and allocation of national resources. They also criticized the government for devoting insufficient resources to health care, other basic services, and protection of indigenous reserves from outsiders. This sometimes culminated in clashes between indigenous persons and nonindigenous persons.

CIMI reported that there were 40 indigenous persons killed during the year, 20 of whom were killed in Mato Grosso do Sul State, where there indigenous lands are not fully demarcated and there are frequent conflicts between cattle ranchers/farmers and indigenous peoples. However, approximately half of these killings were internal (an indigenous person killing another indigenous person) versus external disputes. CIMI believed that the living conditions and government-imposed proximity play a role in the internal killings.

The Marçal de Souza Center of Human Rights (MSCDH) said the health services provided by the National Foundation of Health (FUNASA) and FUNAI were effective and significantly improved the situation among indigenous children in Mato Grosso do Sul State, where FUNASA accredited three nearby hospitals to treat indigenous patients, and the government provided additional funds to local hospitals serving the local indigenous population. In May 2005, after an on-site investigation at the indigenous reserve of Dourados, Mato Grosso do Sul State, a government commission issued a report with 52 health-related recommendations to various government entities.

In response to a 2005 government study reporting unacceptably high infant mortality indices among the indigenous population, on February 15, FUNASA provided \$24.2 million (52 million reais) for health services to indigenous persons. Also in March FUNASA held a major conference to discuss indigenous health issues.

The 1988 constitution charged the federal government with demarcating indigenous areas within five years. The complete process includes four phases: identification, declaration, approval, and registration. According to FUNAI, by year's end 398 of the 611 recognized indigenous areas had reached the final registration stage, 90 were in one of the four phases of the registration process, and 123 had yet to be processed. Identified indigenous territory constituted 12.5 percent of the national territory. However, CIMI stated that FUNAI's data failed to recognize other legitimate indigenous groups; CIMI claimed that the government denied status to 200 such indigenous groups.

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

Nonindigenous persons who illegally exploited indigenous lands for mining, logging, and agriculture often destroyed the environment and wildlife, spread disease, and provoked violent confrontations. FUNAI acknowledged a lack of resources to protect indigenous lands from encroachment, and it depended on the understaffed and poorly equipped federal police for law enforcement on indigenous lands. However, on July 7, in response to previous complaints, the federal police cooperated with FUNAI and IBAMA to remove illegal workers from Kayapó lands in Pará State.

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

Two years after the 2004 killings of 32 prospectors by Cinta-Larga Indians for illegal trespass on the Roosevelt Reserve, the Ministry of Justice admitted that there were 300 engaged in illegal mining during the year.

On October 17, Xikrin Indians occupied the Valley of Rio Doce Company (CVRD) Carajás iron mine in Pará State for four days, preventing the production of 500,000 tons of iron ore. Armed with clubs, bows, and arrows, the Xikrin demanded money and improvements to local infrastructure from the company, including housing for tribal members.

FUNAI said CVRD had not fulfilled a renegotiation agreement with the indigenous group, a claim that CVRD denied. On October 31, CVRD stated that it would not pay its annual contribution towards social welfare benefits for the indigenous community. They rescinded payment, citing the \$4.2 million (9.2 million reais) as compensation for lost revenues caused by recent invasions. CVRD declared that the state, not the private sector, was responsible for the welfare of indigenous groups.

In early November CVRD denounced the government at the OAS for lacking public policies to protect indigenous populations, attributing recent invasions in Pará, Maranhão, and Minas Gerais to government inaction. The president of FUNAI, however, reported that CVRD realized they had no case and decided to continue its payments and subsequently dropped the action at the end of the year.

Land invasions by indigenous groups continued and sometimes resulted in violence and killings. On July 1, Guarani-Kaiowa tribal members attempted to invade the Cristal farm near Dourados, Mato Grosso do Sul State, and briefly held two FUNAI mediators hostage.

In late 2005 federal police forcibly moved 400 members of the 1,115-member Guarani-Kaiowa tribe to a smaller area of the Nade Ru Marangatu reserve after a Supreme Court injunction prevented the land from becoming federally protected. Many tribal members were forced to build shelters on the side of roadways since the relocation area was too small to accommodate the group. Before the eviction, the tribe had complained of constant threats from local cattle ranchers. The situation continued at the end of the year.

In December 2005 private security guard João Carlos Gimenes was indicted for the December 2005 killing of Dorvalino Rocha, a member of the Guarani-Kaiowa tribe, on a ranch near Antonio João, Mato Grosso do Sul State. In January the federal police concluded their investigation, but at year's end Carlos Gimenes was free on bail pending trial.

In March Mayor João Rodrigues of Chapecó, Santa Catarina, was charged with racism against indigenous people on the grounds that his municipal program used defamatory language and that he abused his authority by improperly using the police against indigenous persons. He was sentenced to pay a fine and offer community services to the indigenous community.

According to FUNAI, only 2,500 of the approximately 400,000 indigenous persons attended college. FUNAI also reported that 60 percent of all indigenous students were obliged to abandon studies due to lack of financial resources. Some universities, such as the University of Brasilia, increased reserved spots in their universities as part of their affirmative action programs for indigenous people.

Other Societal Abuses and Discrimination

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

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

According to the NGO Bahian Gay Group, 81 homicides of homosexuals were reported between January and July, compared with 63 killed during the same period in 2005.

There were incidents of violent attacks against homosexuals carried out by neo-Nazi groups in the southern part of the country. In March and April a group or groups of neo-Nazi skinheads attacked several homosexuals in the Jardim Paulista neighborhood of metropolitan São Paulo.

Section 6 Worker Rights

a. The Right of Association

The law provides for union representation of all workers (except members of the military, the uniformed police, and firefighters) but imposes a hierarchical, unitary system funded by a mandatory union tax on workers and employers. New unions must register with the Ministry of Labor and Employment (MTE), which accepts the registration unless objections are filed by other unions.

Unions that represent workers in the same geographical area and professional category may contest registration, in which case the MTE's Secretariat for Labor Relations has 15 days to consider the validity of the objection. If the objection is found to be valid, the MTE does not register the union. Union organizers may challenge this decision in the labor courts.

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

The Single Worker's Central (CUT) estimated that between 20 to 25 percent of workers were unionized. Most informal sector workers, including self-employed workers and those not formally registered with the MTE, fell outside the official

union structure; they therefore did not enjoy union representation and usually were unable to exercise fully their labor rights. The informal sector accounted for approximately one-half of the labor force. In the agricultural sector, 70 percent of workers were unregistered.

Intimidation and killings of rural labor union organizers and their agents continued to be a problem. The CPT reported that violence in rural areas victimized labor leaders, with the perpetrators enjoying relative impunity (see section 1.a.). The CPT reported that 10 rural labor leaders were killed during the year and 266 received death threats in 2005.

Although the law prohibits the dismissal of employees who are candidates for or holders of union leadership positions and requires employers to reinstate workers fired for union activity, authorities at times did not effectively enforce laws protecting union members from discrimination.

Labor courts charged with resolving these and other disputes involving unfair dismissal, working conditions, salary disputes, and other grievances were slow and cumbersome, averaging six years for resolution. Parties generally agreed that, when ultimately resolved, cases were decided fairly and on their merits, although there was been a trend for courts to rule against employees claiming that union membership was not a factor. Although most complaints were resolved in the first hearing, the appeals process introduced many delays, and some cases remained unresolved for five to 10 years.

b. The Right to Organize and Bargain Collectively

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

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

The law stipulates that a strike may be ruled "abusive" by labor courts and be punishable if a number of conditions are not met, such as maintaining essential services during a strike, notifying employers at least 48 hours before the beginning of a walkout, and ending a strike after a labor court decision.

Employers may not hire substitute workers during a legal strike or fire workers for strike-related activity, provided that the strike is not ruled abusive. In practice employers fired strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge was often a protracted process (see section 6.a.).

The MST, which had approximately 100,000 members of unemployed farm workers, was extremely active in invading farms across the country as well as organizing protests, many of which resulted in major property damage. In March the

MST destroyed a laboratory in Pará State and confiscated goods from trucks after blocking highways. Most of their activities were in Pernambuco State, where by March there had been 36 land occupations on farms and on highways usually involving hundreds to thousands of persons, effectively shutting down operations.

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

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor, including by children, forced labor and trafficking of workers occurred in many states (see section 5), most commonly in activities such as forest clearing, logging, charcoal production, raising livestock, and agriculture, particularly harvesting sugarcane, coffee, and cotton. Forced labor typically involved young men drawn from the impoverished northeast to work in the north and central west of the country, but women and children, typically working with their parents, also were engaged in activities such as charcoal production.

The law provides that violators of forced or compulsory labor may be sentenced up to eight years in prison. The law also provides penalties for various crimes related to forced labor, such as recruiting or transporting workers or obliging them to incur debt as part of a forced labor scheme.

The abolition of forced labor was hindered by failure to impose effective penalties, the impunity of those responsible, delays in judicial procedure, and the absence of coordination between the various government bodies.

On November 30, the Supreme Court decided that all slave/forced labor cases fall under the jurisdiction of federal courts. This decision required that all slave/forced labor cases pending in state or local courts were to be transferred to federal courts immediately.

There were few criminal prosecutions relating to forced labor because of the lack of a clear legal definition; local political pressure; weak coordination among the police, the judiciary, and prosecutors; the remoteness of areas in which forced labor was practiced; witnesses' fear of retaliation; and police failure to conduct criminal investigations when accompanying labor inspectors on raids.

Since violators of forced labor laws enjoyed virtual impunity from criminal prosecution, the government used fines and other disincentives to penalize violators. The government withholds credit to landowners using forced labor.

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

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

On February 8, the hydroelectric company São Francisco in Ceará State paid \$16,300 (35,000 reais) to 24 persons discovered working in slave-like conditions by the Public Labor Ministry.

In December the Labor Ministry released a list of 170 employers accused of keeping their workforce in conditions analogous to slave labor. Pará State led with 35.5 percent of these employers, 42 of whom were formally charged. The Pará Federal Public Ministry adjudicated 26 criminal actions during the year.

In August 800 persons were found working for evangelical pastors in slave-like conditions in Minas Gerais State. Pastors Cicero Vicente Araújo and Edmilson Pereira da Silva, who formed the Jesus Church in 1998, convinced these "followers" to relinquish their worldly possessions, work for free, and offer all proceeds to the two leaders. These "followers" were told that they would receive free food and clothing in exchange for field labor.

In April near Rio de Janeiro City, Labor Ministry inspectors found approximately 20 unregistered employees living and working in degrading conditions. They were working 12-hour days, seven days per week, for the Telecom Network, contracted by Telsul, a subsidiary of Telemar.

According to the workers, they had not been paid since December 2005. The Labor Ministry investigation was ongoing at year's end. Workers explained that expenses to pay for necessities such as food and medicine made it impossible for them to return to their homes in other cities and forced them into wage slavery.

In August 431 cane workers, working for less than minimum wage and living in slave-like conditions, were returned to their countries of origin by the Labor Ministry. The workers had been housed in animal stalls, without proper toilet and sanitary facilities, and not provided with sufficient food. They were forced to work hours that significantly exceeded the standard work-day and not provided with the necessary protective equipment

In February a federal judge ordered an indemnity payment of \$1.3 million (2.8 million reais) to 54 forced labor workers rescued in 2003 in Rondônia State.

In February 2005 the attorney general's labor office uncovered slave labor conditions pertaining to 70 workers employed in the construction of a government building north of Rio de Janeiro City. Judicial proceedings against the two construction companies remained pending at the end of the year.

In August the labor ministry returned to their countries of origin 431 cane workers in Bauru, São Paulo State, who were working for less than minimum wage and living in degrading conditions. The ministry characterized the work as slave labor because several workers were housed in unsanitary animal stalls, without proper toilet/sanitary facilities, and without personal protective equipment and without sufficient food. In addition daily working hours significantly exceeded standard working hours. These workers lacked money to return to their homes and were trapped in this work environment.

The National Commission to Eradicate Slave Labor (CONATRAE) coordinated the government's efforts to eliminate forced labor. The group's enforcement arm, the Special Group for Mobile Inspection, had responsibility for locating and freeing victims of forced labor. The mobile unit worked in conjunction with federal police officers, who always accompanied labor inspectors on raids to provide protection.

Mobile teams levied fines on estate owners using forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin. Although mobile units enjoyed some success in freeing those working in slave-like conditions, inspectors sometimes faced resistance (see section 1.a.).

A series of three articles by the Bloomberg News Service in November and December reported on the use of slave/forced labor to produce charcoal used in the pig iron production process. Although this generated media attention, the Ministry of Labor pointed out that only 16 percent of slave labor occurred in this sector, compared with 64 percent in cattle raising and 20 percent in agriculture.

On December 7, federal police raided a poor settlement in Goiás State and arrested landowners suspected of environmental crimes and labor abuse in making charcoal from illegally felled timber from protected areas. There was no official report available on the number arrested.

The ILO Project to Combat Forced Labor, in the country assisted in the development of the National Plan to Combat Forced Labor; established a data base to consolidate and analyze trafficking in persons and forced labor information, and provided technical assistance to government agencies, including to the Ministry of Labor's Special Group for Mobile Inspection teams.

d. Prohibition of Child Labor and Minimum Age for Employment

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

The minimum working age is 16 years, and apprenticeships may begin at age 14. The law bars all minors under age 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions; however, the authorities rarely enforced additional legal restrictions intended to protect working minors under age 18.

The law requires parental permission for minors to work as apprentices, and apprentices must attend school through the primary grades. Nonetheless, the ILO office in Brazil estimated that there were five million child laborers between the ages of five and 17. Approximately half of child laborers received no income, and 90 percent worked in the unregistered informal sector. Slightly more than half of child laborers worked in rural areas, and two-thirds were boys.

A report of the Institute for Work and Society Studies identified 69 main rural and urban activities in which children worked. Common rural activities included: harvesting corn, manioc, and other crops; fishing; mining; raising livestock; and producing charcoal.

In urban areas children worked in shoe shining, domestic services, transportation, construction, restaurants, street peddling, begging, drug trafficking, and prostitution (see section 5). The ILO estimated that approximately 20 percent of 10- to 14-year-old girls worked as household domestics. Most of these workers received less than half the minimum wage and worked in excess of 40 hours a week.

The hidden and informal nature of child labor made children especially vulnerable to workplace accidents. For instance, children who produced charcoal, sisal, sugarcane, and footwear suffered from dismemberment, gastrointestinal disease, lacerations, blindness, and burns caused by applying chemical products with inadequate protection.

The MTE was responsible for inspecting worksites to enforce child labor laws; its regional offices had special groups to enforce child labor laws, principally by gathering data and developing plans for child labor inspection. Nonetheless, most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and the media.

Labor inspectors continued to prioritize inspections in the informal sector, but they remained unable to enter private homes and farms, where much of the nation's child labor was found. In most cases inspectors attempted to reach agreements and to have employers desist from labor law violations before levying fines of \$188 (402 reais) per violation up to a maximum of fine of \$944 (2,013 reais); for a second or third violation the fine doubles or triples respectively. As a result, few employers were fined for employing children.

The Labor Inspection Secretariat reported that between January and August 2006, a total of 8,326 children and adolescents were removed from exploitive labor situations. MTE inspectors often worked closely with labor prosecutors from the Public Ministry of Labor (MPT)--an independent agency responsible for prosecuting labor infractions--which had broader powers and was able to impose larger fines.

The MPT has a national commission to fight child labor. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, and work in a family setting. The commission included 50 prosecutors and focused on strategic areas including sexual exploitation, trash collecting, apprenticeships, domestic labor, drug trafficking. Brazil's National Commission to Eradicate Child Labor (CONAETI) developed the 2004-2007 National Plan to Eradicate Child Labor and proposed a series of legal reforms to help bring national laws into full compliance with the conventions.

The Ministry of Social Development coordinated the National Forum for the Eradication of Child Labor (FNPETI), which provided cash stipends to low-income families who kept their children in school and out of work. Because the public school day lasts only four hours, the FNPETI emphasized complementary educational activities for children during nonschool hours as an alternative to working.

According to the Ministry and data from the UN Development Program (UNDP), one million children benefited from this program in 2005, and UNDP projections for the year estimated that 2.2 million children benefited. Approximately 569,000 children benefited from this program. This contributed to a 51 percent decline in child labor from 1995 to 2005.

To prevent child labor and promote education, the government continued to promote its family stipend program, Bolsa Família, which provides approximately seven dollars to \$44 (15 to 95 reais) monthly to low-income families for each child (up to a total of three children per family) between the ages of six and 15 whose school attendance rate was 85 percent or above. Municipal governments had primary responsibility for day-to-day management of the program.

The Institute of Geography and Statistics (IBGE) demonstrated that the program provided stipends to more than eight million families (15.6 percent of all families) or almost 39 million persons. In addition to the federal program, an estimated 100 municipal governments operated stipend programs. However, in May IBGE released data showing that 72 million persons had a low to moderate level of food security.

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

The private sector also played a role in fighting child labor. The toy industry's Foundation for Children's Rights operated a labeling program that identified companies with child-friendly policies and a commitment to eliminate child labor. The foundation also fostered initiatives through its awards programs for organizations, journalists, and mayors. All major labor centrals implemented programs to educate union members about the hazards of child labor and encouraged members to report instances of child labor to authorities.

e. Acceptable Conditions of Work

The national minimum wage did not provide a decent standard of living for a worker and family. The government adjusts the minimum wage annually and in April raised it from approximately \$140 to \$163 (300 to 350 reais) per month, an increase of more than 13 percent in real terms. Over the last four years, the government has increased the real value of the minimum wage by 25 percent. The Intersindical Statistic and Socio-economic Studies Department estimated that approximately one in three workers earned the minimum wage or less.

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

Although the Ministry of Labor sets occupational, health, and safety standards that are consistent with internationally recognized norms, the government devoted insufficient resources for adequate inspection and enforcement of these standards. Unsafe working conditions were prevalent throughout the country. There were no figures available on workplace accidents during the year. Employees or their unions may file claims related to worker safety with regional labor courts, although this was frequently a protracted process.

According to the Ministry of Social Security, during 2005 there were 491,711 workplace accidents, a 5.5 percent increase from the previous year, although the number of deaths from accidents decreased by 4.8 percent to 2,708 from the previous year.

The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their committee activities. Such firings occurred, however, and legal recourse usually required years for a resolution.

The MPT reported that numerous firms used computerized records to compile "black lists" identifying workers who had filed claims in labor courts. Individual workers did not have the legal right to remove themselves from the workplace when faced with hazardous working conditions, but workers could express such concerns to a company committee for an immediate investigation.

On January 17, a 17-year-old male was found suffocated on a farm belonging to Celso Manica, the brother of two men accused of ordering the killing of a labor inspector in (see section 1.a.). The young man was allegedly suffocated in a grain transfer process in a soy silo near Unai. An inspection by the local labor ministry resulted in 32 safety violations.

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