

Marijuana Marchers Stopped and Arrested in Brazil

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A series of judicial decisions prevented Brazilians from marching for the legalization of marijuana in nine capitals of Brazil's states. The marches were scheduled to take place on May 4, 2008 in ten different cities, but state courts issued preliminary injunctions prohibiting the marches in nine of them.

The judges' actions have been condemned by several organizations including the London-based freedom of expression group Article 19, which said it was appalled by the detention of around 20 demonstrators who attended the marches.

The Marijuana March is a global movement for the legalization of marijuana, with demonstrations carried out in more than 20 countries. In Brazil, a series of judicial decisions prohibited the marches with the argument that they had the intention of disseminating and stimulating drug use.

The marchers' actions supposedly configure "apology and instigation to crime," according to the decisions. In at least four cities, police detained demonstrators or forced protestors to disperse.

The decisions prohibiting the marches are based on article 287 of the Brazilian Penal Code, which defines as a crime the act of "publicly making an apology for a criminal act or for the author of a crime," and article 33 of Law 11.343, which establishes the crime of "inducing, instigating or helping someone to use drugs."

In Rio de Janeiro, one of the cities where the event was prohibited, police detained one demonstrator for alleged "apology to crime" and "disobedience of a judicial order."

The reason: he attended the march with a dog which had a poster on his back calling for the legalization of cannabis. The local press reported that the demonstrator was released after testifying at a police station.

On 21 April 2008, police in Rio had also detained five people for distributing pamphlets announcing the Marijuana March. "The pamphlets simply advertised the march, they did not suggest the use of drugs; but we were detained for making an apology to crime," sociologist Renato Cinco, one of the organizers of the march in Rio, reported.

He and his four colleagues were taken to the police station to testify, and were released after signing a document in which they agreed to be heard in a special Criminal Court for minor offences.

In João Pessoa, the capital of Paraíba State, in the Northeast of Brazil, demonstrators organized a "March for Democracy" after the state court issued an injunction prohibiting the Marijuana March. Police dispersed demonstrators using rubber bullets and tear gas, and in the process wounding some of the demonstrators, the organizers of the March informed.

Nine demonstrators were arrested. "They put us in jail, we had to take off our clothes, standing only in underwear. Some people were detained for five hours," Fábio Sena, an organizer of the march in João Pessoa, reported.

In Salvador, the capital of Northeastern state of Bahia, eight people were detained, some for carrying material for the legalization of marijuana, according to reports by the local press. In Curitiba, the capital of Paraná, in the South of the country, police reportedly checked 90 demonstrators and detained six of them, according to the organizers of the march.

According to Article 19, the judicial decisions prohibiting the marches, the detention of demonstrators and the use of violence to scatter peaceful protests constitute very serious violations against freedom of expression and freedom of assembly, which are guaranteed by international human rights instruments and by the Brazilian Constitution.

Article 19 argues that the marches did not have the intention of disseminating or supporting drug use. Instead, they intended to propose changes in national legislation. Demonstrators did not intend to distribute illegal products or entice drug users and sellers; they simply wanted to express a point of view.

Freedom of expression is a fundamental human right which protects the free flow of opinions and ideas in societies. As a result, it includes the freedom of every person to express ideas on contentious issues, including those that are considered immoral or illegitimate by some sectors of society.

According to the group, the argument according to which discussing the legalization of marijuana is a criminal conduct in itself - consisting of an apology or instigation to crime - is completely inadequate. There is a fundamental difference between expressing an opinion and inciting others to commit a crime.

The criminalization of certain behavior in society requires ongoing public debate, says Article 19. Only a broad discussion on these issues, with effective participation of diverse groups holding different views and opinions, can legitimize the criminalization or decriminalization of certain acts.

Besides that, the concept of "apology to crime," they continue, used to detain some demonstrators and prohibit the marches, is too vague to justify a restriction on freedom of expression. Freedom of expression can only be subject to restrictions when a certain discourse causes real, concrete and imminent danger for the occurrence of a crime.

Article 19 insisted that it strongly condemns the judicial decisions prohibiting the marches, as well as the unreasonable detention of demonstrators who were peacefully exerting their right to express an opinion.

They also called on the Brazilian Judiciary to review these restrictive decisions, and urged state governments to provide the necessary conditions to guarantee that everybody can freely express their opinions and ideas without any interference, including through peaceful demonstrations, even when discussing controversial issues.

Article 19 is an independent human rights organization that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.