

# AMNESTY INTERNATIONAL REPORT 2007

## BRAZIL

FEDERATIVE REPUBLIC OF BRAZIL

Head of state and government: Luiz Inácio Lula da Silva

Death penalty: abolitionist for ordinary crimes

International Criminal Court: ratified

Problems within the public security, prison and judicial systems, including systematic human rights violations, contributed to persistently high levels of criminal violence. The poorest communities bore the brunt of the tens of thousands of gun-related deaths. Well over 1,000 people were killed in confrontations with the police in incidents classified as "resistance followed by death", many in situations suggesting excessive use of force or extrajudicial executions. Torture continued to be widespread and systematic. Access to land continued to be a focus of human rights violations, including forced evictions and violent attacks on rural land activists, anti-dam campaigners, urban squatter movements and Indigenous peoples. Many people continued to work in conditions equivalent to slave or indentured labour. Human rights defenders continued to be subjected to threats and attacks.

### Background

President Luiz Inácio Lula da Silva was re-elected for a second (and final) term. His first term was marked by extensive allegations of political corruption across the political spectrum.

Investigations into corruption highlighted direct and indirect links to the erosion of human rights protection. There were extensive reports of misappropriation of public funds at all levels of the executive and legislature, which undermined the authorities' capacity to guarantee fundamental human rights through social services and increased the loss of public faith in state institutions. In particular, there were a number of high profile cases of alleged corruption in Congress. The involvement of state officials in criminal activity resulted in human rights violations and an apparent increase in organized crime across the country. Law enforcement officials were reportedly involved in the drugs trade, selling guns, and smuggling arms, mobile phones and drugs to members of criminal gangs in detention.

President Lula's first term was also marked by targeted social investment coupled with tight fiscal policy. Central to the government's social policy was the family grant (bolsa família), under which around 11 million poor families received grants when they sent

children to primary school. This combined policy was welcomed in some sectors for bringing economic stability while reportedly achieving some reductions in social inequality. However, other sectors, including social movements, expressed concern at the budget restraints applied to social investment in other areas, namely public security, land reform and indigenous rights, in order to sustain debt payments and the budget surplus.

While the introduction of legislation to criminalize domestic violence and the further development of programmes to combat torture and protect human rights defenders were welcomed, there was a clear reluctance to address a number of issues. Of greatest concern was the area of public security where there was a continued lack of effective political attention. None of the presidential candidates and few candidates for state governor offered genuine long-term solutions to address the tens of thousands of homicides committed across the country each year. Faced with ever higher levels of violence, state and federal leaders continued to seek political advantage by offering reactive and short-term solutions.

Ratification of the Optional Protocol to the UN Convention against Torture was passed by Congress, although reforms to bring Brazil's legislation in line with the Rome Statute of the International Criminal Court were persistently blocked.

## **Criminal justice system**

The criminal justice system continued to deteriorate in the face of long-term negligence by the federal and state governments. Promised reforms were not implemented, resulting in unprepared and under-funded police, judicial and prison systems being forced to deal inadequately with extreme levels of criminal violence. This contributed to systematic human rights violations by law enforcement officials, including excessive use of force, extrajudicial executions, torture and ill-treatment as well as widespread corruption.

Attempts by certain state authorities to define public security problems as a war saw the increasing adoption of military tactics by state police forces. The poorest communities, enjoying least protection from the state, were doubly victimized, suffering the highest concentrations of violent crime and the repressive and discriminatory methods used by the police to combat it.

## **Human rights violations by police and army**

Police officers killed well over 1,000 people. These killings were rarely investigated fully, as they were registered as "resistance followed by death", often

pre-empting any thorough investigation. According to official figures, in the first nine months of 2006 Rio de Janeiro police killed 807 people, a slight increase on the previous year, while in São Paulo 528 people were killed by police, more than the total for the whole of 2005. Police and prison guards were themselves vulnerable to attack and many were killed.

In May the state of São Paulo was shaken by violence by criminals and police. Between 12 and 20 May, members of the First Command of the Capital (Primeiro Comando da Capital, PCC), a criminal gang born in the state's prison system, took to the streets in a massive display of organized violence. Allegedly protesting against prison conditions and the transfer of their leaders to a high security prison, they killed over 40 law enforcement officers, burned more than 80 buses, attacked police stations, banks and a metro station, and co-ordinated revolts and hostage-taking in around half of the state's prisons. In response, police reported that they had killed over 100 "suspects".

In several incidents in poor communities across the state of São Paulo, people were killed by masked men in situations suggesting extrajudicial executions or "death-squad" style revenge killings. State authorities only provided details of those killed by the police following a threat of legal action by the Public Prosecutor's office. At the height of the violence, 117 people died in firearms-related incidents in a single day. The PCC launched further attacks, killing a number of prison guards in July. Federal and state government responses to the violence were widely criticized in the media, by public security experts, by police officers and by human rights activists for seeking to take political advantage ahead of elections rather than finding a resolution to the violence.

The state authorities in Rio de Janeiro adopted increasingly militarized tactics in their attempts to combat drug gangs which held sway over most of the city's shanty towns. An armoured troop carrier, colloquially called the "caveirão", was used to police the poorest parts of the city. There were reports of bystanders being killed by military police officers shooting indiscriminately from "caveirões". In March the army deployed troops and tanks on the streets of Rio de Janeiro's shanty towns in an effort to track down stolen guns. Although federal prosecutors challenged the legality of the operation, neither the state nor federal governments questioned the army's decision to take to the streets. However, residents complained of arbitrary, violent and discriminatory treatment by soldiers who were neither trained nor mandated to carry out such operations.

In December Rio de Janeiro state and municipal authorities announced they were investigating reports that up to 92 favelas (shanty towns) had come under the control of paramilitary-style militias. According to reports the militias were made up of active and former police officers working with the support of local politicians and community leaders. Militias were reportedly providing "security" for these communities. However, residents reported the extensive use of violence and the extortion of protection money. Some communities claimed they had suffered violent retaliation from drug factions when members of the militias withdrew from their communities.

There were reports of "death squad"-style killings in the north-eastern states of Bahia, Pernambuco and Sergipe. Two men previously accused of involvement with the "death squad" known as "the Mission" during the 1990s were appointed as Secretary of Public Security and head of the Military Police in the state of Sergipe. Members of the state human rights commission expressed concern at the return of the "death squad" following reports of several killings and enforced disappearances. In one incident in April witnessed by over 50 people, three teenage boys were taken away by members of the elite

unit of the military police in the community of Mosqueiro. One of the boys was allegedly tortured until he fainted and later regained consciousness in a wood. The other two boys reportedly disappeared and by the end of the year no trace of them had been found.

- In April, members of the military police in Recife, Pernambuco state, reportedly detained a group of 14 teenagers who were at the carnival. The police reportedly tortured them, took them to a bridge over the Capibaribe river and forced them to jump in. The bodies of two of the boys, aged 15 and 17, were found two days later. An investigation was initiated and five police officers were charged with homicide and torture, but in June one of the boys testifying against the police was shot dead.

## **Detention system**

The detention system strained under the pressure of an ever-increasing prison population and inadequate financial and political investment. There were regular reports of torture and ill-treatment being used for control, punishment and corruption by police officers, prison guards and other detainees. Detention centres suffered from extreme overcrowding and poor sanitary conditions, while prison staff were unsupported and under-trained. There were numerous riots and countless cases of prisoner-on-prisoner violence as many prisons fell under the control of criminal gangs. Belated attempts to break up the gangs saw the further use of "super-max" style prisons, under the Differentiated Disciplinary System (Regime Disciplinar Diferenciado, RDD), previously criticized by both the National Council on Criminal and Penal Policy of the Ministry of Justice and the National Bar Association as contravening human rights protections set out both in the Constitution and under international law.

The breakdown of the prison system was exemplified in São Paulo state by the conditions in the Araraquara prison after riots in May. For several months 1,600 prisoners, including sick and injured, were kept in a yard with space for 160 people while the prison underwent reconstruction.

There were persistent reports of violations against women in detention. AI witnessed conditions in the Colônia Penal Feminina, a women's prison in Recife, which were extremely poor, with women sleeping on the floor and in shower units, limited health facilities and reports of violent treatment by guards. New-born babies were kept in cells with women, some of whom were reportedly ill, with limited health or safety facilities.

## **Impunity**

The extreme slowness and ineffectiveness of the judicial system reinforced impunity for human rights violations. In February the São Paulo State Supreme Court absolved Colonel Ubiratan Guimarães for his role in the 1992 Carandiru prison massacre in which 111 prisoners were killed. By the end of 2006, no other police officer had stood trial for their part in the massacre.

One important victory against the general tide of impunity was the conviction in March of one of the five military police officers accused of killing 29 residents in the Baixada Fluminense district of Rio de Janeiro in 2005.

## **Land and housing**

Access to land and housing was a focal point for extensive human rights violations. According to the Pastoral Land Commission, 25 land activists were killed between January and October, including 16 in the state of Pará. Millions of people suffered extreme social and economic deprivation as a result of being deprived of access to land and housing both in urban and rural areas.

Those fighting for the right to land, including Indigenous peoples, land activists and urban squatter groups, suffered forced evictions, threats and violent attacks. Some were killed. Those seeking access to land were often denied access to justice. In some cases judicial rulings were reported to have been discriminatory, and in others people faced allegedly politically motivated criminal charges.

- In August the Pará state court, a regional court, issued orders threatening a total of 4,000 families with forced evictions, with no alternative provision. A number of the settlements facing eviction were on land that was eligible for expropriation under legislation for agricultural reform as the farms upon which they were situated had been deemed "unproductive" or were illegally located or were found to be using slave or indentured labour. In September, lawyers for the Pastoral Land Commission managed to have some evictions suspended, but many families remained under threat.

There were continued reports of attempts to undermine the work of social activists in the state of Pernambuco, and efforts to criminalize their leaders. In May an association representing military police officers advertised on hoardings throughout Recife accusing members of the landless workers' movement of being lawless and out of control. Ten members of the landless workers' movement were arrested on what were reported to be politically motivated charges.

- Two separate arrest warrants were issued against Jaime Amorim, a leader of the landless worker's movement. The first was for allegedly leading an occupation onto land that a federal government body had ruled should be appropriated. The second followed public disturbances outside the US Consulate during President Bush's visit to Brazil in November 2005. Jaime Amorim was charged several days after the event with disobedience, incitement to a crime and disrespecting authority. He was detained while attending the funerals of two landless activists killed in August. Both arrest warrants were overturned and he was provisionally released.

In the state of Espírito Santo, the Tupiniquim and Guarani Indigenous peoples suffered threats and attacks, as a result of their long-standing campaign for their hereditary lands. The disputed lands were contested by Aracruz Celulose S/A, a leading producer of

eucalyptus pulp. Although the federal government's Indigenous Office had recognized the land as appropriate for demarcation, the decision to proceed with the process was stalled.

- In January, members of the federal police violently evicted Tupiniquim and Guarani peoples from settlements built on disputed land. Thirteen Indigenous people were injured and two villages were burnt down, following attacks with helicopters, dogs, rubber bullets and tear gas. According to reports, Aracruz Celulose S/A gave logistical support to the federal police during the eviction.

- In September, federal prosecutors initiated a successful civil case against Aracruz Celulose S/A for promoting a discrimination campaign against the Tupiniquim and Guarani peoples.

## **Slave labour**

Advances were made in the fight against slave labour. According to the International Labour Organization, 18,000 people had been released since 1995 from debt bondage by members of the federal government's mobile unit. However, the problem was far from eradicated. According to the Pastoral Land Commission, around 8,000 people a year were forced into situations equivalent to slave or indentured labour. Promised reforms to the Constitution to allow for the confiscation of land where slave labour was used remained pending in Congress.

## **Human rights defenders**

Human rights defenders continued to suffer discrimination, threats and attacks. Many human rights groups suffered a backlash in the wake of the violent attacks by the PCC in São Paulo.

Efforts by the government to put in place its national human rights defenders programme led to initial training sessions for state police officers in the state of Pará and preparation for similar training in the states of Pernambuco and Espírito Santo. However, it was reported that the project suffered from serious shortfalls. Members of civil society participating in the project expressed several concerns, most notably the lack of a properly resourced national body to oversee the programme and the continued reluctance of the federal police to provide protection.

The persistent failure of the authorities to bring those responsible for the killings of human rights defenders to justice continued to place them at risk.

- Vicente Cañas Costa, a Spanish Jesuit working in defence of Indigenous peoples, was murdered in 1987 in the state of Mato Grosso. Nineteen years later, two of the men suspected of his murder were brought to trial. While human rights groups welcomed the court's recognition that Vicente Cañas Costa had indeed been murdered, failures in the initial investigation reportedly contributed to both men being acquitted.

# **AI country reports/visits**

## **Report**

- Brazil: "We have come to take your souls" - the caveirão and policing in Rio de Janeiro (AI Index: AMR 19/007/2006)

## **Visit**

AI delegates visited Brazil in May/June.

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