

# **BRAZIL 2018 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Brazil is a constitutional, multiparty republic. On October 28, voters elected Federal Deputy Jair Bolsonaro as the next president in a runoff election. International observers reported the elections were free and fair.

Civilian authorities at times did not maintain effective control over security forces.

Human rights issues included reports of unlawful or arbitrary killings by state police; harsh and sometimes life-threatening prison conditions; violence against journalists; corruption by officials; societal violence against indigenous populations and lesbian, gay, bisexual, transgender, and intersex persons; killings of human rights defenders; and slave labor that may amount to human trafficking.

The government prosecuted officials who committed abuses; however, impunity and a lack of accountability for security forces was a problem, and an inefficient judicial process delayed justice for perpetrators as well as victims.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports that state police committed unlawful killings. In some cases police employed indiscriminate force. The extent of the problem was difficult to determine because comprehensive, reliable statistics on unlawful police killings were not available. Official statistics showed police killed numerous civilians but did not specify which cases may have been unlawful. For instance, the Rio de Janeiro Public Security Institute, a state government entity, reported that from January to July, police killed 890 civilians in “acts of resistance” (similar to resisting arrest) in Rio de Janeiro State, a 39 percent increase over the same period in 2017. Government and police authorities attributed the rise to increased law enforcement engagement as part of the federal public security intervention in the state that began on March 16.

Most of the deaths in the city of Rio de Janeiro occurred while police were conducting operations against narcotics trafficking gangs in the 1,018 favelas (poor neighborhoods or shantytowns), where an estimated 1.5 million persons lived. A

disproportionate number of the victims were Afro-Brazilians under age 25. Nongovernmental organizations (NGOs) in Rio de Janeiro questioned whether all of the victims actually resisted arrest, suggesting police often employed unnecessary force. On August 20, the armed forces conducted an operation targeting crime in the poor communities of Complexo do Alemão, Mare, and Penha that resulted in the death of five civilians and three military personnel. The operation involved 4,200 military personnel and 70 civil police officers backed by armored cars and helicopters. On the same day, military police officers killed six other civilians on the bridge connecting the cities of Rio de Janeiro and Niterói. Military police officials stated the civilians were fleeing the neighborhoods where the military operations were taking place.

According to the São Paulo State Secretariat of Public Security, on- and off-duty military and civil police officers were responsible for 205 deaths in the state in the first half of the year, compared with 459 during the same period in 2017. According to civil society organizations, the victims of police violence in São Paulo State were overwhelmingly Afro-Brazilian youth. In June David Wayot Soares de Freitas died in the city of São Paulo from a gunshot fired by a military police officer. The police officer stated he fired the shot accidentally while approaching Freitas and his friend, who were on a motorbike. The officer stated he had received a report of cell phone theft by persons on a motorbike and was suspicious of the backpack worn by Freitas. Officials subsequently discovered the backpack contained a pizza, which Freitas was helping his friend deliver. The police report stated the two men held their hands up in surrender and were not carrying illegal items.

During national elections in October, politically motivated violence, especially against journalists, Afro-Brazilians, and lesbian, gay, bisexual, transgender, and intersex persons, was reported throughout the country. Media reported 50 attacks perpetrated by supporters of leading presidential candidate Jair Bolsonaro, including the killing of a supporter of the Workers Party (PT) in Bahia State after he declared his vote for the PT. High-profile leaders, including Superior Electoral Court President Rosa Weber, and Bolsonaro himself also were victims of violence and threats. On September 6, while campaigning in Minas Gerais State, Bolsonaro was the victim of a knife attack that left him in serious condition.

Police officers Fabio de Barros Dias and David Gomes Centeio of the 41st Military Police Battalion of Irajá, accused of killing two men in Rio de Janeiro in March 2017, were free and awaiting trial as of November.

In the first three months of the year, seven politicians were killed. In March unknown gunmen killed Rio de Janeiro council member Marielle Franco and her driver. On December 13, state police in Rio arrested a number of suspects. The crime was allegedly carried out by local organized-crime groups with ties to local politicians.

The NGO Global Witness reported 57 activists were killed in 2017, leading it to classify the country as extremely lethal for social, human rights, and environmental activists.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution prohibits such practices, but there were reports that government officials employed them.

In October the ombudsman for the Rio de Janeiro Public Defender's Office released a report of findings on 15 neighborhoods affected by the federal military intervention, which began in March. The report documented 30 types of violations, including cases of rape, physical aggression, robberies, and home invasions perpetrated by federal law enforcement officials.

In November the press reported claims that federal military officers tortured three male favela residents in Rio de Janeiro in August. The men alleged the military held them for 17 hours, during which they were beaten, electrically shocked, and sprayed in the face with pepper spray.

### **Prison and Detention Center Conditions**

Conditions in many prisons were poor and sometimes life threatening, mainly due to overcrowding. Abuse by prison guards continued, and poor working conditions and low pay for prison guards encouraged corruption.

Physical Conditions: Endemic overcrowding was a problem. According to the National Council of the Public Ministry, in August the overall occupation rate was

175 percent of capacity. The northern region had the worst situation, with three times more prisoners than designed capacity.

Reports of abuse by prison guards continued. Multiple reports filed with the Sao Paulo Public Defender's Office, the National Penitentiary Department, and members of the National Council of Justice detailed abuse at the Unidade Prisional de Avare I, in the state of Sao Paulo, including suffocation with bags filled with urine and feces. Another prisoner claimed prison guards at the Complexo Medico-Penal prison in the state of Parana slammed his head against the wall and punched and kicked him.

Prisoners convicted of petty crimes frequently were held with murderers and other violent criminals. Authorities attempted to hold pretrial detainees separately from convicted prisoners, but lack of space often required placing convicted criminals in pretrial detention facilities. In many prisons, including those in the Federal District, officials attempted to separate violent offenders from other inmates and keep convicted drug traffickers in a wing apart from the rest of the prison population. Multiple sources reported adolescents were held with adults in poor and crowded conditions. In many juvenile detention centers, the number of inmates greatly exceeded capacity.

The National Council of Justice found that, as of the end of 2017, there were 373 pregnant and 249 breastfeeding inmates in the prison system. In February the Supreme Court ruled that women who are pregnant or have children age 12 months and younger have the right to wait for the start of their trials under house arrest as opposed to preventive detention.

Prisons suffered from insufficient staffing and lack of control over the prison population. Violence was rampant in several prison facilities in the Northeast. In addition to overcrowding, poor administration of the prison system, the presence of gangs, and corruption contributed to violence within the penitentiary system. Media reports indicated most leaders of major criminal gangs were incarcerated and were controlling their expanding transnational criminal enterprises from inside prisons.

Multiple prison riots throughout the year led to the deaths of inmates, including a January riot in Ceara State in which 10 prisoners were killed and a September riot in Para State in which seven prisoners were killed. In February inmates at a prison in Japeri, a metropolitan area of the city of Rio de Janeiro, took prison guards hostage during a riot following a failed escape attempt. Three persons were

wounded in the disturbances. Approximately 2,000 inmates were held in the Japeri facility, built for fewer than 900.

General prison conditions were poor. There was a lack of potable water for drinking and bathing, inadequate nutrition, rat and cockroach infestations, damp and dark cells, and beatings of inmates. According to the Ministry of Health, prisoners were 28 times more likely to contract tuberculosis, compared to the general public. In November the Organization of American States's Inter-American Commission on Human Rights visited prisons in the states of Maranhao, Roraima, and Rio de Janeiro, declaring the Jorge Santana Prison in Rio de Janeiro as one of the worst prisons commission members had seen and denouncing the Monte Cristo Agricultural Penitentiary Center in Roraima for subjecting prisoners to serious diseases and without the minimum right to food.

Administration: State-level ombudsman offices and the federal Secretariat of Human Rights monitored prison and detention center conditions and conducted proper investigations of credible allegations of mistreatment. Prisoners and detainees had access to visitors; however, human rights observers reported some visitors complained of screening procedures that at times included invasive and unsanitary physical exams.

Independent Monitoring: The government permitted monitoring by independent nongovernmental observers.

Improvements: In May the National Council of Justice launched the National Registry of Prisoners, designed to contain basic data about all prisoners in the penitentiary system, including prisoner biographic data, the reason for the detention, the location of the prisoner, and the court order under which the prisoner was incarcerated.

In June the Pernambuco state government transferred the first inmates to Unit I of the newly constructed Itaquitinga Prison.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and limits arrests to those caught in the act of committing a crime or called for by order of a judicial authority; however, police at times did not respect this prohibition. The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court.

## **Role of the Police and Security Apparatus**

The federal police force, operating under the Ministry of Public Security, is primarily an investigative entity and plays a minor role in routine law enforcement. Most police forces are under the control of the states. There are two distinct units within the state police forces: the civil police, which performs an investigative role, and the military police, charged with maintaining law and order. Despite its name, the military police does not report to the Ministry of Defense. The law mandates that special police courts exercise jurisdiction over state military police except those charged with “willful crimes against life,” primarily homicide. Police personnel often were responsible for investigating charges of torture and excessive force carried out by fellow officers, although independent investigations increased. Delays in the special military police courts allowed many cases to expire due to statutes of limitations.

Civilian authorities generally maintained effective control over security forces, and the government has mechanisms in place to investigate and punish abuse and corruption; however, impunity and a lack of accountability for security forces was a problem. In October the Ombudsman’s Office of the Rio de Janeiro Public Defender published the report *Favela Circuit for Rights*, which documented the complaints from the city’s favela residents of home invasion, robbery, destruction of personal property, and sexual assault perpetrated by law enforcement officials under the jurisdiction of the federal public security intervention that began in the state in March. A survey released in August conducted by the Ombudsman’s Office of the Sao Paulo Military Police showed the use of excessive force in 74 percent of civilian deaths caused by the military police in 2017. The agency analyzed 756 of the 940 deaths due to police intervention in 2017, which represented 80 percent of the total.

In Rio de Janeiro’s favelas, so-called militia groups, often composed of off-duty and former law enforcement officers, reportedly took policing into their own hands. Many militia groups intimidated residents and conducted illegal activities such as extorting protection money and providing pirated utility services. The groups also exploited activities related to the real estate market and the sale of drugs and arms.

## **Arrest Procedures and Treatment of Detainees**

Officials must advise persons of their rights at the time of arrest or before taking them into custody for interrogation. The law prohibits use of force during an arrest unless the suspect attempts to escape or resists arrest. According to human rights observers, some detainees complained of physical abuse while being taken into police custody.

Authorities generally respected the constitutional right to a prompt judicial determination of the legality of detention. Detainees were informed promptly of the charges against them. The law permits provisional detention for up to five days under specified conditions during an investigation, but a judge may extend this period. A judge may also order temporary detention for an additional five days for processing. Preventive detention for an initial period of 15 days is permitted if police suspect a detainee may flee the area. Defendants arrested in the act of committing a crime must be charged within 30 days of arrest. Other defendants must be charged within 45 days, although this period may be extended. In cases involving heinous crimes, torture, drug trafficking, and terrorism, pretrial detention could last 30 days with the option to extend for an additional 30 days. Often the period for charging defendants had to be extended because of court backlogs. The law does not provide for a maximum period for pretrial detention, which is decided on a case-by-case basis. Bail was available for most crimes, and defendants facing charges for all but the most serious crimes have the right to a bail hearing. Prison authorities generally allowed detainees prompt access to a lawyer. Indigent detainees have the right to a lawyer provided by the state. Detainees had prompt access to family members. If detainees are convicted, time in detention before trial is subtracted from their sentences.

Pretrial Detention: Approximately 40 percent of prisoners nationwide were in prison provisionally (without a sentence from a judge), according to former minister of justice Alexandre de Moraes. A study conducted by the Ministry of Justice's National Penitentiary Department found that more than half of the pretrial detainees in 17 states had been held in pretrial detention for more than 90 days. The study found 100 percent of pretrial detainees in Sergipe State, 91 percent in Alagoas State, 84 percent in Parana State, and 74 percent in Amazonas State had been held for more than 90 days.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and the government generally respected judicial independence and impartiality. Local NGOs, however,

cited that corruption within the judiciary, especially at the local and state levels, was a concern.

### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although NGOs reported that in some rural regions--especially in cases involving land rights activists--police, prosecutors, and the judiciary were perceived to be more susceptible to external influences, including fear of reprisals. Investigations, prosecutions, and trials in these cases often were delayed.

After an arrest a judge reviews the case, determines whether it should proceed, and assigns the case to a state prosecutor, who decides whether to issue an indictment. Juries hear cases involving capital crimes; judges try those accused of lesser crimes. Defendants enjoy a presumption of innocence and have the right to be present at their trial, to be promptly informed of charges, not to be compelled to testify or confess guilt, to confront and question adverse witnesses, to present their own witnesses and evidence, and to appeal verdicts. Defendants generally had adequate time and facilities to prepare a defense but do not have the right to free assistance of an interpreter.

Although the law requires trials be held within a set time, there were millions of backlogged cases at state, federal, and appellate courts, and cases often took many years to be concluded. To reduce the backlog, state and federal courts frequently dismissed old cases without a hearing. While the law provides for the right to counsel, the Ministry of Public Security stated many prisoners could not afford an attorney. The court must furnish a public defender or private attorney at public expense in such cases, but staffing deficits persisted in all states.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Citizens may submit lawsuits before the courts for human rights violations. While the justice system provides for an independent civil judiciary, courts were burdened with backlogs and sometimes subject to corruption, political influence, and indirect intimidation. Cases involving violations of an individual's human



rights may be submitted through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the law and constitution prohibit such actions, NGOs reported police occasionally conducted searches without warrants. Human rights groups, other NGOs, and media reported incidents of excessive police searches in poor neighborhoods. During these operations, police stopped and questioned persons and searched cars and residences without warrants.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for the press, and the government generally respected this right. Independent media were active and expressed a wide variety of views with minimal restriction, but nongovernmental criminal elements subjected journalists to violence due to their professional activities. National laws prohibit politically motivated judicial censorship, but some local-level courts engaged in judicial censorship. In instances of violence perpetrated by protesters or provocateurs during massive demonstrations, at times security forces injured journalists during crowd-control operations. There were also cases of protesters attacking journalists.

Violence and Harassment: Journalists were sometimes subject to harassment, physical attacks, and threats as a result of their reporting. From January to April, the Brazilian Association of Radio and Television Broadcasters recorded the deaths of two journalists as well as 14 physical attacks, 11 threats, and nine acts of vandalism against journalists. On January 18, Jefferson Pureza Lopes, host of the radio program *A Voice of the People*, was killed in his home in Goias State. He had received death threats for years, and both his home and radio station office were burned down in response to denunciations of city irregularities made on his radio show. According to the international organization Reporters without Borders, a third Brazilian journalist was killed on August 16.

In August media outlets reported physical attacks against journalists by demonstrators in the states of Ceara and Sao Paulo as journalists were covering

protests against the decision by the Federal Court of Parana on the imprisonment of former president Luiz Inacio “Lula” da Silva.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or systematically censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

The 2014 Marco Civil law, considered an internet “bill of rights,” enshrines net neutrality and freedom of expression online and provides for the inviolability and secrecy of user communications online, permitting exceptions only by court order. Nevertheless, several legal and judicial rulings citing the Marco Civil law had the potential to threaten freedom of expression on the internet. Anonymous speech is explicitly excluded from constitutional protection, which left little privacy protection for those who used the internet anonymously through a pseudonym. Police and prosecutors may obtain data pursuant to three main statutes: the Wiretapping Act, Secrecy of Financial Data Act, and Money Laundering Act. In August President Temer approved a new data protection law regulating the use, protection, and transfer of personal data. NGOs praised the new law, with the NGO Article 19 calling it “an important advancement in the right to privacy and freedom of expression.” The local NGO Intervozes said the new law “creates an important legal framework that guarantees privacy and protection of fundamental rights” and puts the country in line with other international legislation in the field of data protection.

The electoral law regulates political campaign activity on the internet. The law prohibits paid political advertising online and in traditional media. During the three months prior to an election, the law also prohibits online and traditional media from promoting candidates and distributing content that ridicules or could offend a candidate.

According to the International Telecommunication Union, 65 percent of the population used the internet in 2017.

### **Academic Freedom and Cultural Events**

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

## **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **Freedom of Peaceful Assembly**

The government generally respected the right of freedom of peaceful assembly, but police occasionally intervened in citizen protests that turned violent.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

## **d. Freedom of Movement**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The National Committee for Refugees cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. By law refugees are provided official documentation, access to legal protection, and access to public services. The migration law signed by President Temer in May 2017 went into effect in November 2017, with implementing regulations developed during 2018. The law codifies protections for asylum claimants but overall made few changes to existing practices. It creates a new humanitarian visa as well as a new residency status that serves as an alternative to refugee claims for some categories of regional migrants, particularly from Venezuela.

During the year increasing numbers of Venezuelan economic migrants, asylum seekers, and refugees arrived in Roraima State in the north. As of August, 75,000 Venezuelans had applied for asylum or temporary residency in Brazil. The influx of Venezuelans into the small state of Roraima aggravated relations between local

residents and the migrants and refugees, leading to some incidents of violence. On August 18, an anti-Venezuelan riot broke out in the border town of Pacaraima after a group of Venezuelans allegedly assaulted a local restaurant owner. While no deaths were reported, 1,200 Venezuelans were temporarily forced to return to their country.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: In national elections held in October, citizens elected Federal Deputy Jair Bolsonaro as the next president. His inauguration was set for January 1, 2019. An observer mission from the Organization of American States considered the elections free and fair.

The law provides for the freedom to contest elections, except for certain enumerated ineligible acts. A 2010 electoral law amendment bars candidates who have been impeached or convicted of corruption crimes or who have renounced office to avoid impeachment. The law does not require a final and unappealable conviction, and it was contested as being counter to the constitution's article concerning the presumption of innocence. On August 31, former president Luis Inacio "Lula" da Silva was ruled ineligible by the Superior Electoral Court to run in the 2018 presidential election under this clause. Da Silva contested the finding in the Supreme Court, arguing among other points that the ruling on his ineligibility before all appeals were exhausted was a violation of his constitutional rights. On September 6, the Supreme Court rejected his appeals.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

By law, 20 percent of the political television and radio advertising must be used to encourage female participation in politics. Parties that do not comply with this requirement may be found ineligible to contest elections. In August the Social Liberal Party was banned from fielding candidates in the state of Sergipe for failure to abide by the gender minimums. Some parties also fielded the minimum number of female candidates but reportedly did not provide sufficient support for them to campaign effectively. In May the Superior Electoral Court ruled parties

must provide a minimum of 30 percent of campaign funds to support the election of female candidates. Women remained underrepresented in elected positions.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for conviction of corruption by officials and stipulates civil penalties for corruption committed by Brazilian citizens or entities overseas. There were numerous reports of corruption at various levels of government, and delays in judicial proceedings against persons accused of corruption were common, often due to constitutional protections from prosecution for sitting members of Congress and government ministers. This often resulted in de facto impunity for those responsible.

Corruption: The investigation of the Petrobras state oil company embezzlement scandal (Operation Carwash, or Lava Jato), which began in 2014, continued and led to arrests and convictions of money launderers and major construction contractors and also to the investigation, indictment, and conviction of politicians across the political class. Information gained through collaboration and plea bargains with suspects launched a widening net of new investigations. Through October courts handed down 215 convictions related to the investigations, including that of former president Luiz Inacio “Lula” da Silva.

On November 29, federal police agents arrested Rio de Janeiro Governor Luiz Fernando Pezao on charges of corruption and money laundering. He allegedly received \$40 million in bribes from 2007 to 2015, while serving as the vice governor to former governor Sergio Cabral, who was in prison serving a 14-year sentence for corruption and money laundering connected to Operation Carwash.

Financial Disclosure: Public officials are subject to financial disclosure laws, and officials generally complied with these provisions. Not all asset declarations are made public, but federal employees’ salaries and payment information are posted online and can be searched by name.

#### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 were cooperative and responsive to their

views. Federal and state officials in many cases sought the aid and cooperation of domestic and international NGOs in addressing human rights problems.

Government Human Rights Bodies: Some local human rights organizations were critical of the Ministry of Human Rights, re-established by President Temer in 2017, stating their long-time contacts had been removed, many positions were unfilled, and the role of civil society in policy discussions had been severely reduced.

The Chamber of Deputies and the Senate had human rights committees that operated without interference and participated in several activities nationwide in coordination with domestic and international human rights organizations. Most states had police ombudsmen, but their accomplishments varied, depending on such factors as funding and outside political pressure.

A National Council for Human Rights, composed of 22 members--11 from various government agencies and 11 from civil society--met regularly. Other councils using this mixed government and civil society model included the National LGBT Council, National Council for Religious Freedom, National Council for Racial Equality Policies, National Council for Rights of Children and Adolescents, and National Council for Refugees.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape. The Maria da Penha Law criminalizes physical, psychological, and sexual violence against women, as well as defamation and damage to property or finances by someone with whom the victim has a marriage, family, or intimate relationship. Persons convicted of killing a woman or girl in cases of domestic violence may be sentenced to 12 to 30 years in prison.

In July Parana state officials accused Luis Felipe Manvailier of killing his wife, Tatiane Spitzner. Security camera footage showed Manvailier hitting and choking his wife and dragging her body into an elevator of their apartment building. As of November 30, he was in detention and awaiting trial.

The federal government maintained a toll-free nationwide hotline for women to report instances of intimate partner violence. Hotline operators have the authority

to mobilize military police units to respond to such reports and follow up regarding the status of the case.

Each state secretariat for public security operated police stations dedicated exclusively to addressing crimes against women. State and local governments also operated reference centers and temporary women's shelters, and many states maintained domestic violence hotlines. Despite these protections, allegations of domestic violence were not always treated as credible by police; a study in the state of Rio Grande do Sul found 40 percent of femicide victims had previously sought police protection.

On October 4, Claudécir Kuster dos Soares shot his ex-wife Celia Oliveira on a public bus in Lages, in the state of Santa Catarina. Soares then shot himself. Both were taken to a hospital for emergency surgery and were expected to recover. Oliveira had a restraining order against Soares and had reported receiving a death threat from him in September. As of November 30, Soares was in police custody.

The law requires health facilities to contact police regarding cases in which a woman was harmed physically, sexually, or psychologically and to collect evidence and statements should the victim decide to prosecute.

Sexual Harassment: Sexual harassment is a criminal offense, punishable by up to two years in prison. NGOs reported sexual harassment was a serious concern, and perpetrators were frequently not held accountable.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: The law provides for the same legal status and rights for women as for men in all circumstances. The government did not enforce the law effectively. According to the recruitment agency Catho, women received 62 percent of the amount men received for equal work as of March.

## **Children**

Birth Registration: Citizenship is derived from birth in the country or from birth to a Brazilian citizen parent. The National Council of Justice, in partnership with the Secretariat of Human Rights, acted to reduce the number of children without birth certificates by registering children born in maternity wards.

Child Abuse: The law prohibits child abuse and negligence. Abuse and neglect of children and adolescents were problems. Child pornography carries a prison sentence of up to eight years and a fine.

Early and Forced Marriage: The legal minimum age of marriage is 18 (16 with parental or legal representative consent). According to 2017 data from UNICEF, 11 percent of women ages 20-24 were married by age 15, and 36 percent of women ages 20-24 were married by age 18.

Sexual Exploitation of Children: Sexual exploitation of children, adolescents, and other vulnerable persons is punishable by four to 10 years in prison. The law defines sexual exploitation as child sex trafficking, sexual activity, production of child pornography, and public or private sex shows. The government enforced the law unevenly. The law sets a minimum age of 14 for consensual sex, with the penalty for statutory rape ranging from eight to 15 years in prison.

In August police arrested former civil police officer Alzemar da Conceicao dos Anjos for running a child sex ring in the Rio de Janeiro metropolitan area. A joint telephone wiretap investigation by the Public Ministry and civil police revealed that dos Anjos notified staff about the arrival of police and instructed that girls younger than age 18 be removed from the home where they were kept.

While no specific laws address child sex tourism, it is punishable under other criminal offenses. The country was a destination for child sex tourism. In addition girls from other South American nations were exploited in commercial sex in the country.

The law criminalizes child pornography. The penalty for possession of child pornography is up to four years in prison and a fine.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

## **Anti-Semitism**



According to the Jewish Federation, there were approximately 120,000 Jewish citizens, of whom approximately 50,000 were in the state of Sao Paulo and 30,000 in Rio de Janeiro State.

Several leaders of the Jewish and interfaith communities stated overt anti-Semitism was limited. Small neo-Nazi groups existed in the southern states of Rio Grande do Sul, Santa Catarina, and Parana.

In September the Israeli Federation of Rio de Janeiro reported that in Zona Sul, in the city of Rio de Janeiro, individuals spray-painted a swastika on a wall of a residence decorated with a mezuzah. Police were investigating the incident.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical and mental disabilities, and the federal government generally enforced these provisions. While federal and state laws mandate access to buildings for persons with disabilities, states did not enforce them effectively.

The Inclusion of Persons with Disabilities Act, a legal framework on the rights of persons with disabilities, seeks to promote greater accessibility through expanded federal oversight of the City Statute (a law intended to foster the safety and well-being of urban citizens, among other objectives). The act also includes harsher criminal penalties for conviction of discrimination based on disability and inclusive health services with provision of services near residences and rural areas.

The National Council for the Rights of Persons with Disabilities and the National Council for the Rights of the Elderly have primary responsibility for promoting the rights of persons with disabilities. The lack of accessible infrastructure and schools significantly limited the ability of persons with disabilities to participate in the workforce.

Civil society organizations acknowledged monitoring and enforcement of disability policies remained weak and criticized a lack of accessibility to public

transportation, weak application of employment quotas, and a limited medical-based definition of disability that often excludes learning disabilities.

### **National/Racial/Ethnic Minorities**

The law prohibits racial discrimination, specifically the denial of public or private facilities, employment, or housing to anyone based on race. The law also prohibits the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets, and it stipulates prison terms for such acts.

Approximately 52 percent of the population identified themselves as belonging to categories other than white. Despite this high representation within the general population, darker-skinned citizens, particularly Afro-Brazilians, encountered discrimination. Afro-Brazilians were underrepresented in the government, professional positions, and middle and upper classes. They experienced a higher rate of unemployment and earned average wages below those of whites in similar positions. There was also a sizeable education gap. Afro-Brazilians were disproportionately affected by crime.

The 2010 Racial Equality Statute continued to be controversial, due to its provision for nonquota affirmative action policies in education and employment. In 2012 the Supreme Court upheld the constitutionality of racial quota systems at universities. The 2010 law requires 20 percent of federal public administration positions be filled by Afro-Brazilians.

The Ministry of Planning requires government ministries to create internal committees to validate the self-declared ethnicity claims of public-service job applicants by using phenotypic criteria, assessing “blackness” in an attempt to reduce abuse of affirmative action policy and related laws. Universities also had race evaluation committees.

In April the Supreme Court ruled that 20 percent of vacancies for the military services must be filled by Afro-Brazilians, either men or women.

### **Indigenous People**

According to data from the National Indigenous Foundation (FUNAI) and the 2010 census, there were approximately 897,000 indigenous persons, representing 305 distinct indigenous ethnic groups that spoke 274 distinct languages. The law grants the indigenous population broad protection of their cultural patrimony,

exclusive use of their traditional lands, and exclusive beneficial use of their territory.

According to the constitution, all aboveground and underground minerals as well as hydroelectric power potential belong to the government. Congress must consult with the tribes involved when considering requests to exploit mineral and water resources, including ones with energy potential, on indigenous lands. Human rights groups expressed concerns that most of the requirements for indigenous consultation were not met.

Illegal logging, drug trafficking, and mining, as well as changes in the environment caused by large infrastructure projects, forced indigenous tribes to move to new areas or make their demarcated indigenous territories smaller than established by law. In some areas of Maranhao State, there were nightly curfews that applied only to indigenous persons.

According to FUNAI, the federal government established rules for providing financial compensation following the occupation in good faith of indigenous areas, as in the cases of companies that won development contracts affecting indigenous lands. Various indigenous groups protested the slow pace of land demarcations. In a case that lasted more than 30 years, during the year a court ordered the return of 20,000 acres of land to the Pankararu indigenous community in the municipalities of Tacaratu, Petrolandia, and Jatoba in the state of Pernambuco.

On August 11, indigenous leader Jorge Guajajara was killed in Maranhao. Police were investigating the case.

The Quilombola population--descendants of escaped African slaves--was estimated to include 6,000 communities and approximately five million individuals, although the government had no official statistics. The constitution recognizes Quilombola land ownership rights. In February the Supreme Court rejected the president's attempt to apply "marco temporal" to Quilombola land claims, which would have prevented claims to lands the Quilombolas did not physically occupy in 1988, when the constitution was promulgated. In March the governor of Para State concluded a 23-year land dispute by signing over titles for more than 543,000 acres of Amazon forest to the Quilombola community in Cachoeira Porteira.

Of the 70 land-conflict deaths recorded by the NGO Pastoral Land Commission in 2017, 11 victims were Quilombola leaders. In April Quilombola leader Nazildo dos Santos Brito was killed in Para State, following threats to his physical safety

after protesting a palm oil plantation's alleged illegal deforestation and pollution practices.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

Federal law does not explicitly prohibit discrimination based on sexual orientation, gender identity or expression, or sex characteristics, but several states and municipalities have administrative regulations that prohibit such discrimination and provide for equal access to government services. The criminal code states offenses subject to criminal prosecution fall under federal statutes, leaving hate crimes subject to administrative, not criminal penalties. Sao Paulo was the only state to codify punishments for hate-motivated violence and speech against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. In the state of Rio de Janeiro, the law penalizes commercial establishments that discriminate against individuals on the basis of their LGBTI status. In Brasilia the law penalizes both individuals and businesses for discrimination against LGBTI persons. In both Rio de Janeiro and Brasilia, sanctions vary from warnings and fines to the temporary suspension or termination of a business license.

Violence against LGBTI individuals was a serious concern. Through June there were 85 killings of LGBTI individuals. On April 5, five persons accused of the 2017 murder of a transgender woman, Dandara dos Santos, in Fortaleza, Ceara State, were convicted and sentenced to imprisonment ranging from 14 years and six months to 21 years.

### **HIV and AIDS Social Stigma**

Discrimination against persons with HIV/AIDS is punishable by up to four years in prison and a fine. Civil society organizations and the press reported discrimination against persons with HIV/AIDS.

### **Other Societal Violence or Discrimination**

In August and September, unknown perpetrators committed acts of arson, vandalism, and destruction of sacred objects against seven Afro-Brazilian temples or places of worship (terreiros) on the outskirts of Rio de Janeiro. The state secretary of human rights said the incidents were likely the work of an unidentified "religious militia." There were eight similar incidents in the state of Sao Paulo in

September. In another case an individual entered a terreiro during a meeting of practitioners and stabbed four persons, including one minor.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for freedom of association for all workers (except members of the military, military police, and firefighters), the right to bargain collectively with some restrictions, and the right to strike. The law limits organizing at the enterprise level. By law the armed forces, military police, or firefighters may not strike. The law prohibits antiunion discrimination, including the dismissal of employees who are candidates for, or holders of, union leadership positions, and it requires employers to reinstate workers fired for union activity.

New unions must register with the Ministry of Labor, which accepts the registration unless objections are filed by other unions. The law stipulates certain restrictions, such as unicidade (in essence one union per occupational category per city), which limits freedom of association by prohibiting multiple, competing unions of the same professional category in a single geographical area. Unions that represent workers in the same geographical area and professional category may contest registration.

The law stipulates a strike may be ruled “disruptive” by the labor court, and the union may be subjected to legal penalties if the strike violates certain conditions, such as if the union fails to maintain essential services during a strike, notify employers at least 48 hours before the beginning of a walkout, or end 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 the strike is not ruled abusive. In April the Supreme Court ruled against the right of civil police to strike, stating all public security organs are prohibited from striking, including civil police, military police, federal police, fire brigades, railway police, and highway police. Civil police officials filed a grievance with the International Labor Organization (ILO).

The law obliges a union to negotiate on behalf of all registered workers in the professional category and geographical area it represents, regardless of whether an employee pays voluntary membership dues. The law permits the government to reject clauses of collective bargaining agreements that conflict with government policy. A July 2017 law includes collective bargaining changes, such as the ability

to negotiate remuneration for the commute to and from work, working remotely, and a flexible hours schedule.

Freedom of association and the right to collective bargaining were generally respected. Collective bargaining was widespread in establishments in the private sector. Worker organizations were independent of the government and political parties. The Ministry of Labor suspended union registration processes for a period of 90 days beginning on July 23 after a police investigation uncovered evidence that nonexistent unions were being registered fraudulently.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits “slave labor,” defined as “reducing someone to a condition analogous to slavery,” including subjecting someone to forced labor, debt bondage, exhausting work hours, and labor performed in degrading working conditions.

Many individuals in slave labor, as defined by the country’s law, were victims of human trafficking for the purpose of labor exploitation. The government took actions to enforce the law, although forced labor occurred in a number of states. Violations of forced labor laws are punishable by up to eight years in prison, but this was often not sufficient to deter violations. The law also provides penalties for various crimes related to forced labor, such as illegal recruiting or transporting workers or imposing onerous debt burdens as a condition of employment. Every six months the Ministry of Labor publishes a “Dirty List” of companies found to have employed forced labor. Inclusion on the list prevents companies from receiving loans from state-owned financial institutions. The Labor Prosecutor’s Office, in partnership with the ILO, maintained an online platform that identified hotspots for forced labor.

The National Commission to Eradicate Slave Labor coordinated government efforts to combat forced and exploitative labor and provide a forum for input from civil society actors. The commission’s members included representatives from 10 government agencies or ministries--including Human Rights, Justice, Federal Police, Agriculture, Labor, and Environment--and 20 civil society groups and the private sector. The ILO was also a member.

The Ministry of Labor’s Mobile Inspection Unit teams conducted impromptu inspections of properties where forced labor was suspected or reported, using teams composed of labor inspectors, labor prosecutors from the Federal Labor Prosecutor’s Office, and federal police officers. Mobile teams levied fines on

landowners who used forced labor and required employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin. Labor inspectors and prosecutors, however, could apply only civil penalties; consequently, many cases were not criminally prosecuted. Workers removed by mobile units were entitled to three months' salary at the minimum wage. In early August ministry investigators rescued 18 workers who were laboring on coffee plantations in conditions analogous to slavery.

Forced labor, including forced child labor, was reported in jobs such as clearing forests to provide cattle pastureland, logging, producing charcoal, raising livestock, and other agricultural activities. Forced labor often involved young men drawn from the less-developed northeastern states--Maranhao, Piaui, Tocantins, and Ceara--and the central state of Goias to work in the northern and central-western regions of the country. In addition there were reports of forced labor in the construction industry. News outlets reported cases that amounted to forced labor in production of carnauba wax. Cases of forced labor were also reported in the garment industry in the city of Sao Paulo; the victims were often from neighboring countries, particularly Bolivia, Peru, and Paraguay, while others came from Haiti, South Korea, and China.

According to Global Slavery Index 2018 data, an estimated 369,000 persons were living in modern slavery. These individuals were concentrated in areas that had experienced rapid economic development, mainly in the agricultural sector.

In January labor inspectors rescued 10 men working in "slave-like conditions" in a salt production company in the municipality of Araruama in the state of Rio de Janeiro. The laborers were living in filthy and makeshift accommodations and did not have appropriate equipment to work. The Labor Prosecutor's Office required employers to terminate their contracts, compensate the victims, and pay unemployment insurance for the rescued workers.

In April civil police agents and Ministry of Labor officials rescued 31 workers on the premises of the Chinese multinational company Cofco Agri. The ministry fined the company, which manufactured agricultural products, two million reais (\$525,000) for failing to provide potable water and subjecting laborers to unhealthy, overcrowded accommodation. Of the 31 rescued laborers, four were from Maranhao State and the remaining 27 from Mato Grosso State.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum working age is 16, and apprenticeships may begin at age 14. The law bars all minors younger than age 18 from work that constitutes a physical strain or occurs in unhealthy, dangerous, or morally harmful conditions. Hazardous work includes an extensive list of activities within 13 occupational categories, including domestic service, garbage scavenging, and fertilizer production. The law requires parental permission for minors to work as apprentices.

According to the Ministry of Labor, in the last two decades, the number of underage working children declined from eight million to 2.7 million. The remaining cases were the most difficult to identify because they often took place in inaccessible rural areas or within a family home.

The Ministry of Labor is responsible for inspecting worksites to enforce child labor laws. Penalties for violations range from 402 reais to 1,891 reais (\$105 to \$500), doubling for a second violation and tripling for a third, and were generally enforced; however, observers asserted fines were usually too small to serve as an effective deterrent. Most inspections of children in the workplace were driven by complaints brought by workers, teachers, unions, NGOs, and media. Due to legal restrictions, labor inspectors remained unable to enter private homes and farms, where much of the child labor allegedly occurred.

In May a study published by Abrinq Foundation, a Sao Paulo-based entity devoted to the protection of children's rights, found that 3.3 million children and adolescents (ages five to 17) were in a situation of child labor, including in activities involving bananas, cacao, coffee, corn, fish, hogs, poultry, sheep, and sugarcane. The Ministry of Labor's National Committee for the Eradication of Child Labor continued to implement the country's National Plan to Combat Child Labor and maintained a database on the worst forms of child labor occurring in the country.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations prohibit discrimination on the basis of race, sex, gender, disability, religion, political opinion, natural origin or citizenship, age,



language, and sexual orientation or gender identity. Discrimination against individuals who are HIV positive or suffer from other communicable diseases is also prohibited. The government generally enforced the laws and regulations, although discrimination in employment occurred with respect to Afro-Brazilians, women, persons with disabilities, indigenous persons, and transgender individuals. The Ministry of Labor implemented rules to integrate promotion of racial equality in its programs, including requiring race be included in data for programs financed by the ministry. According to the ILO, women not only earned less than men but also had difficulties entering the workplace: 78 percent of men held paid jobs, compared with 56 percent of women. Although the law prohibits gender discrimination in pay, professional training, and career advancement, the law was not enforced and discrimination existed.

#### **e. Acceptable Conditions of Work**

The law provides for a minimum wage. The minimum wage was greater than the official poverty income level. According to 2016 Brazilian Institute of Geography and Statistics (IBGE) data, however, the per capita income of approximately 40 percent of workers was below the minimum wage. IBGE data also revealed 6.8 percent of workers (12.9 million) were considered “extremely poor” or earning less than 70 reais (\$18.40) per month. The Ministry of Labor verified enforcement of minimum wage laws as part of regular labor inspections. Penalties alone were not sufficient to deter violations.

The law limits the workweek to 44 hours and specifies a weekly rest period of 24 consecutive hours, preferably on Sundays. The law also provides for paid annual vacation, prohibits excessive compulsory overtime, limits overtime to two hours per workday, and stipulates that hours worked above the monthly limit must be compensated with at least time-and-a-half pay; these provisions generally were enforced for all groups of workers in the formal sector. The constitution also provides for the right of domestic employees to work a maximum of eight hours of per day, a maximum of 44 hours’ work per week, a minimum wage, a lunch break, social security, and severance pay.

The Ministry of Labor sets occupational, health, and safety standards that are consistent with internationally recognized norms, although unsafe working conditions were prevalent throughout the country, especially in construction. The law requires employers to establish internal committees for accident prevention in workplaces. It also provides for the protection of employees from being fired for their committee activities. Workers could remove themselves from situations that

endangered their health or safety without jeopardy to their employment, although those in forced labor situations without access to transportation were particularly vulnerable to situations that endangered their health and safety.

In March the regional labor court in Sao Paulo upheld the conviction of M5 Industria e Comercio, owner of the M.Officer brand, under the state's antislavery law for dumping. The court found M5 had been contracting its production out to firms that hired immigrant persons, who were forced to work beyond the legal maximum number of hours and in unsafe conditions. The court also confirmed the fine of six million reais (\$1.6 million).

The Ministry of Labor addressed problems related to acceptable conditions of work such as long workdays and unsafe or unhygienic work conditions. Penalties for violations include fines that vary widely depending on the nature of the violation; the fines were generally enforced and were sometimes sufficient to deter violations. The National Labor Inspection School held various training sessions for labor inspectors throughout the year. The Ministry of Labor reported the number of labor inspectors (2,367) in the country was insufficient to enforce full compliance nationwide. Inspections continued to take place despite reduced funding, leading to fewer inspectors and inspections.

According to the IBGE, 33.3 million persons were employed in the formal sector as of May 2017. The IBGE also reported 22.9 million persons were working in the informal economy, an increase of 5 percent, compared with 2016.