



# “THEY USE A STRATEGY OF FEAR”

PROTECTING THE RIGHT  
TO PROTEST IN BRAZIL

AMNESTY  
INTERNATIONAL



Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

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**AMNESTY  
INTERNATIONAL**



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Cover photo: Military police officers during a protest in São Paulo, 11 June 2013. Since June 2013, the military police have used excessive force in responding to protests on several occasions. © Mídia Ninja

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**“I was proud to participate in the protests but when I was arrested, it was over for me. They use a strategy of fear. I don’t want to go through that again. I have anxiety attacks and haven’t been able to find work: employers ask for criminal records. I was painting graffiti murals, but now I’ve stopped. Everything has changed.”**

Humberto Caporalli, 24 year-old graffiti artist, who was charged under Brazil's National Security Law after taking part in a demonstration for better education in São Paulo on 7 October 2013.

## **INTRODUCTION**

In recent weeks, Brazil has witnessed thousands of protesters in the streets as the country prepares to host the football World Cup. The current protests echo huge demonstrations that took place last year, in which Brazilians expressed their discontent with increased public transportation costs, high World Cup spending and insufficient investment in public services. The protests in 2013, which began in São Paulo in June, reached an unprecedented scale, with hundreds of thousands of people participating in mass demonstrations in dozens of cities.

The police response to the wave of protests in 2013 was, in many instances, violent and abusive. Military police units used tear gas indiscriminately against protesters – in one case even inside a hospital – fired rubber bullets at people who posed no threat and beat people with hand-held batons. Hundreds were injured, including a photographer who lost his eye after being hit by a rubber bullet. Hundreds more were indiscriminately rounded up and detained, some under laws targeting organized crime, without any indication that they were involved in criminal activity.



Military police surround peaceful protesters in front of the local council building in Cinelândia Square, Rio de Janeiro, 15 October 2013. Dozens of peaceful protesters were subsequently detained. © Luiz Baltar

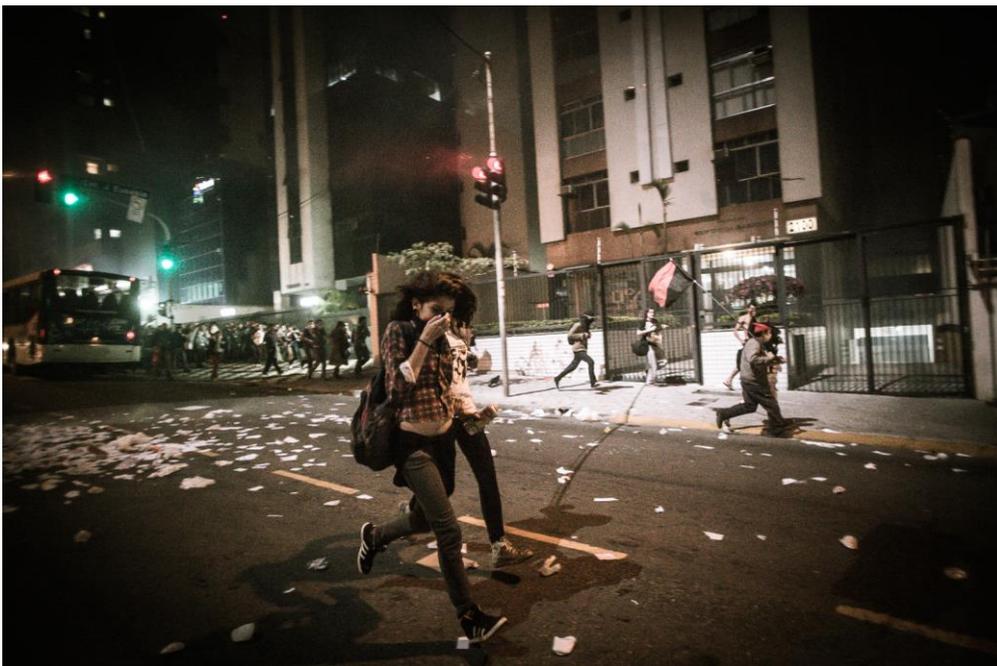
Deficiencies in policing, especially around inadequate training and lack of accountability, raise serious concerns that the right to protest will be severely undermined during the upcoming World Cup tournament. The country's planned reliance in some cities on conventional military forces, whose record in carrying out policing duties is poor, exacerbates these concerns.

Some state and federal legislators have lately been calling for tougher laws to give police and prosecutorial authorities more power to quell protests. The accidental killing of a cameraman in February 2014 by fireworks let off by a demonstrator helped fuel such calls, and political authorities took advantage of the controversy caused by the death to lobby for a more hardline response. While the vast majority of people who have taken to the streets over the past year have expressed their views peacefully, there has been violence by some groups and individuals, with some demonstrators destroying property, starting fires, blocking traffic and clashing with police.

A range of legislative proposals is currently pending in the National Congress and could potentially be used to undermine the right to protest. For example, a new draft counterterrorism law includes a broad definition of terrorism that would, among other things, extend to damage to goods and essential services, and there are fears that it might be misused against protesters. A raft of other proposals would expressly cover protests, including banning the wearing of masks during protests, and requiring protesters to give advance notice of demonstrations to government authorities. Yet it is far from clear why this legislation is needed. Brazil already has an array of legal tools for responding to vandalism and violent hooliganism; adding further, overly broad laws serves neither the rights of individuals nor the interests of Brazilian society as a whole.

Amnesty International has interviewed protesters, lawyers, journalists and human rights defenders about the protests that have taken place over the past year in Brazil. We have also reviewed video evidence, examined police records and analyzed government documents. Our work tracking the police response to public protests is part of a larger, long-term effort to monitor police practices in Brazil.

The world's attention will be focused on Brazil during the World Cup. Those Brazilians who are dissatisfied with their government's record of advancing social change and ameliorating societal inequities may feel it to be an opportune moment to take to the streets. For Amnesty International, the World Cup provides a crucial opportunity to test whether the police and other public authorities in Brazil understand and take seriously their obligation to respect the rights to freedom of expression and peaceful assembly. As a party to the International Covenant on Civil and Political Rights (ICCPR), which it ratified in 1992, Brazil should ensure that individuals and groups are able to participate freely in public protests.



Protesters flee after military police use tear gas indiscriminately during a protest in São Paulo, 13 June 2013. © Mídia Ninja

## EXCESSIVE USE OF FORCE

Hundreds of protesters have been beaten and injured while taking part in public protests in the cities of Rio de Janeiro and São Paulo over the past year, largely at the hands of military police. Extensive information from participants in and eyewitnesses to demonstrations indicates that the police have used excessive force in responding to protests, including the use of "less-lethal" weapons; especially tear gas, pepper spray, stun grenades and plastic or rubber bullets.<sup>1</sup> In at least one protest, in Rio de Janeiro on 17 June 2013, there were credible indications that police used regular firearms to disperse protesters.

Because of poor training,<sup>2</sup> and a lack of regulation,<sup>3</sup> police in Brazil sometimes use "less-lethal" weapons inappropriately. For example, on at least three occasions in June and July 2013 in Rio de Janeiro, police used tear gas against protesters in enclosed spaces, including hospitals, subway stations and restaurants. Zoel Salim, director of the Pinheiro Machado Health Center in Rio de Janeiro, told Amnesty International about one such incident on 11 July 2013. He described how military police "threw tear gas bombs in the hallway of the hospital emergency room," causing the gas to "spread throughout the hospital".



A military police officer uses pepper spray against protesters in São Paulo, 13 June 2013. © Mídia Ninja

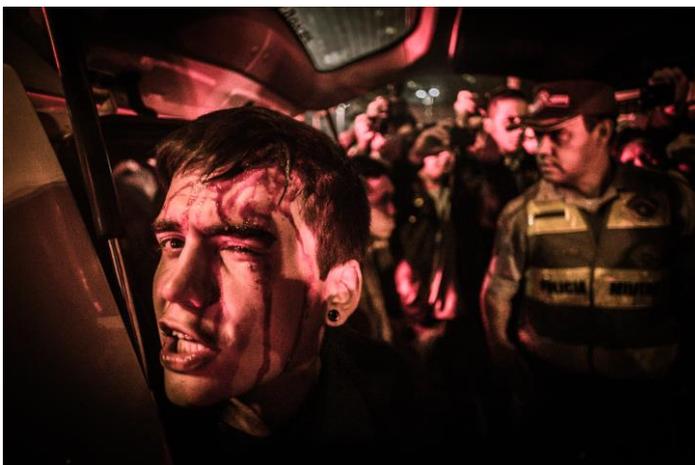
International human rights standards that are binding on Brazil require the government to respect the rights to free expression and assembly, and to take a graduated response to any illegal behavior during protests. Notably, international standards governing the use of force and firearms provide, among other things, that police and other law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duties.<sup>4</sup> They must as far as possible use non-violent means before resorting to the use

of force. If the use of force is unavoidable, they must exercise restraint in its use. They must not use firearms against persons except in self-defence or the defence of others against an imminent threat of death or serious injury.

Given the military's poor record in carrying out policing duties, Amnesty International's concerns about excessive use of force are exacerbated by reports that military forces will be deployed in Brazilian cities that are hosting World Cup games. It should be emphasized that military forces carrying out law enforcement functions must comply with the same international legal standards as regular police, and must be subject to the same accountability mechanisms.



Top left: Journalist injured by a rubber bullet shot by military police in Rio de Janeiro during a protest, 11 July 2013. © Luiz Baltar/Imagens do Povo



Top right: Protester injured during a protest in São Paulo, 20 June 2013. © Mídia Ninja



Bottom right: Woman injured by a rubber bullet shot by military police in São Paulo during a protest on 20 June 2013. © Mídia Ninja



Photographer Sérgio Andrade da Silva lost his eye after being hit by a rubber bullet shot by military police during a protest in São Paulo on 13 June 2013. © Sérgio Andrade da Silva

## SÉRGIO ANDRADE DA SILVA, PHOTOGRAPHER, SÃO PAULO

Sérgio Silva, aged 32, is a professional photographer. On 13 June 2013, he attended a protest in São Paulo against increases in bus fares. According to eyewitness testimonies and video evidence reviewed by Amnesty International, the police used excessive force in responding to the protest.

That evening, military police blocked an avenue where protesters had intended to walk. Sérgio Silva was covering the protest in that location, and he later told Amnesty International that he saw no sign of violence from the protesters. Describing the police action as an “attack”, Sérgio Silva said that the police “simply began to fire tear gas, rubber bullets and stun grenades in all directions”. It seemed, in his view, “to be a premeditated, organized effort to prevent the march from taking place”. Sérgio Silva also told Amnesty International that police fired their weapons at passers-by and reporters, not just protesters.

Sérgio Silva was hit almost immediately by a rubber bullet, which struck him in the left eye. He told Amnesty International that the pain was indescribable. “I felt an impact, a terrible pain in my left eye which swelled and bled instantly.”

A bystander brought Sérgio Silva to a public hospital. Despite receiving surgery that night, he lost his eye, which was later replaced by a prosthesis.

Sérgio Silva, who is married with two children, was unable to work for three months. The loss of his eye has compromised his ability to take photographs, as it is now very difficult for him to assess depth of field, focus and clarity. He also faces difficulties getting around the city, especially when crossing roads or using public transport.

Sérgio Silva has never received an official explanation, apology, or offer of compensation from the authorities. He and his family have had to pay for all his medical expenses. Sérgio Silva personally organized a petition and collected 45,000 signatures to call for an end to the use of rubber bullets and has lodged a civil action for damages against the state of São Paulo.

"The authorities consistently talk about their own inquiry into what they call 'police excesses' during the protests, but have not made the results of these inquiries available to the public," said Sérgio Silva. "State silence in response to what has happened is a secondary form of violence."

## **GIULIANA VALLONE, REPORTER, SÃO PAULO**

Giuliana Vallone, aged 27, is a reporter for a major newspaper in São Paulo. She was one of numerous journalists covering protests in the centre of São Paulo on 13 June 2013, when she was hit in the eye by a rubber bullet. She claims that the policeman responsible for the shooting saw her, took aim, and fired at her from a distance of 20m.

"I wasn't protesting," Giuliana Vallone told Amnesty International. "There were no protesters confronting the police in the street. He simply pointed his weapon at me and fired." Giuliana Vallone had stopped to help a lost pedestrian and was not taking photographs or filming at the moment she was injured. "I saw him [the police officer] looking at me, but never imagined he was going to fire... You never imagine that an armed guy in uniform will fire in your face."

Doctors said it was a "miracle" that Giuliana Vallone did not lose her eye, and that the glasses she was wearing probably protected her.



On 25 January 2014, military police officers entered a hotel in São Paulo where protesters were sheltering, launched tear gas bombs and hit protesters with batons, resulting in numerous injuries. © Yan Boechat

## VINICIUS DUARTE, STUDENT, SÃO PAULO

Vinicius Duarte, a 27-year-old musician and university student, was severely beaten by military police officers during a protest in the city of São Paulo on 25 January 2014. He was seriously injured, suffering a broken jaw, broken nose and four lost teeth, after two military police officers hit him repeatedly with police batons.

Vinicius Duarte told Amnesty International that after some protesters took violent action, the police tried to disperse the crowd by using tear gas and beating protesters. Together with a group of protesters, Vinicius Duarte entered the lounge of a nearby hotel, seeking shelter from the tear gas. He told Amnesty International: "The police were shooting tear gas bombs randomly and the street was completely suffocating; nobody could breathe. In an effort to breathe a little, some people asked to enter the hotel and the staff received us well. There, we started to assist each other. There were people sick due to the tear gas and those who were not being assisted were assisting others."

Vinicius Duarte claims that the police surrounded the hotel and then entered it. He said that they did not try to negotiate with protesters, but rather entered the hotel violently, hitting people with their batons and shooting rubber bullets, including at people who were on the ground.

Vinicius Duarte said that he tried to reason with the police, asking them to be calm. At that moment, he said, two police officers attacked him. "When I gesticulated with my hands asking for calm, two police officers came towards me and started hitting me repeatedly with their batons. When I was hit on the head, I fell on the floor and they didn't stop hitting me. Even when I was lying on the floor defenceless, they kept hitting me over and over, and I started to lose blood and I lost my teeth."

Vinicius Duarte suffered severe injuries, but did not receive medical care for over two hours. There were volunteer doctors present at the protest to provide immediate medical assistance, but Vinicius Duarte claims that the police officers did not allow him to be given medical care. Finally, he was finally taken to a hospital.

The police opened an inquiry against Vinicius Duarte for bodily injury and resistance, while Vinicius Duarte pressed charges against the police officers whom he claimed had assaulted him. Amnesty International is not aware of the outcome of these investigations.

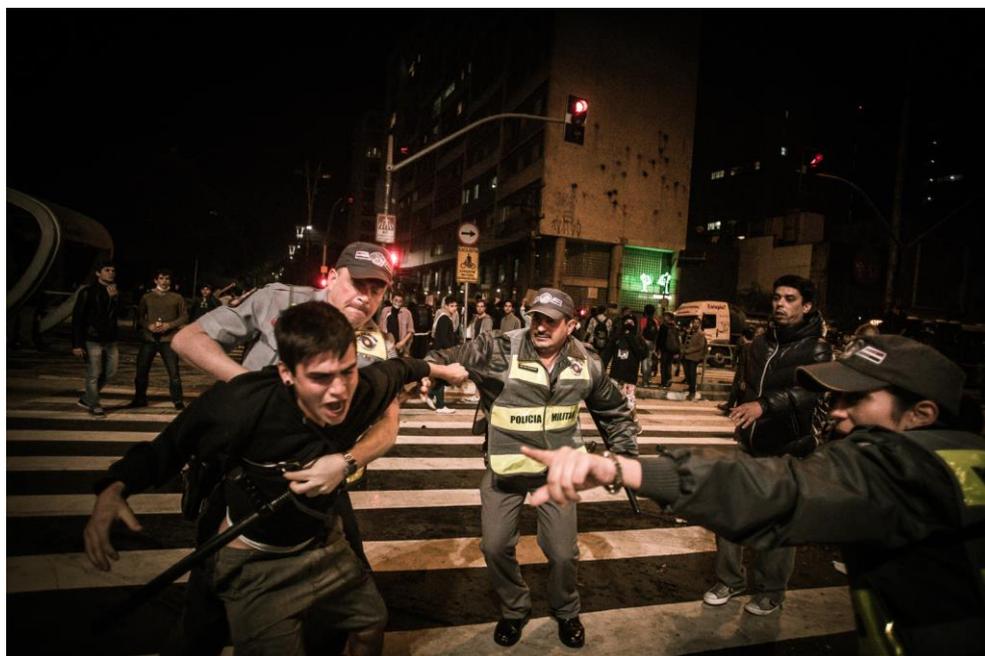


Protesters dispersing after military police used tear gas indiscriminately during a protest in São Paulo, 6 June 2013. © Mídia Ninja

## ARBITRARY ARRESTS, DENIAL OF ACCESS TO LEGAL COUNSEL, AND THE MISUSE OF BROAD LAWS

Many hundreds of people have been arrested and taken in for questioning in the context of protests since mid-2013. In the vast majority of cases, protesters have been released without charge, sometimes after investigations by the civil police established that the accusations against them were unfounded. To date, only one person is known to have been convicted of an offence relating to criminal behaviour during the protests, and the case against him was questionable.

In contravention of Brazilian law and international standards, military police have arrested protesters even when lacking evidence of their involvement in criminal activity, bringing them to police stations and detaining them temporarily for questioning and background checks.<sup>5</sup> The simple acts of carrying flags, banners, ink, or vinegar (used to ameliorate the effects of tear gas) have been deemed sufficient reason to detain people for questioning. Although most people have been released quickly, their contact details and personal information remain with the police, making protesters and their lawyers fearful that they could face investigation in the future.



Police officers detaining a protester in São Paulo, 18 June 2013. Since June 2013, military police have detained peaceful protesters on several occasions in São Paulo. © Mídia Ninja

Also worrying is the inappropriate use of harsh criminal laws against protesters. People who have taken part in protests have been arrested under the Law for Criminal Organizations (Law nº 12.850, 2 August 2013), a law to target organized crime. People who had never met before but were detained in the same protest have been wrongly placed under formal investigation under this law, allegedly for being part of a criminal organization. Similarly, Amnesty International knows of at least two protesters who were investigated under Brazil's National Security Law (Law nº 7.170, 14 December 1983), which also targets organized crime and which dates from the period in which the country was under military rule.<sup>6</sup>

Of equal concern is the placing of a number of protesters under investigation for the crime of "contempt for authority" (*desacato*) based on statements or comments they made to police. The offence carries a penalty of six months to two years' imprisonment. Even lawyers have reportedly been arrested under this law – though not formally investigated – after they questioned the police as to why protesters were detained. "Contempt for authority" laws are generally incompatible with the right to freedom of expression.<sup>7</sup>

Lawyers in São Paulo and Rio de Janeiro told Amnesty International researchers that they have been denied access to detained protesters on several occasions when they have visited police stations, and that some detained protesters have been prohibited from making contact with lawyers and family members for several hours following arrest. The lawyers also told Amnesty International that they suffer interference at police stations when attempting to advocate on behalf of protesters arrested at demonstrations. One lawyer, Daniel Biral, who belongs to a group of volunteer lawyers in São Paulo who provide free legal aid to people detained during protests, claims that he was threatened by a member of the military police at a protest. In another instance, after visiting a hospitalized protester in São Paulo on 27 January 2014, he was warned by an unidentified armed man to stop representing protesters. He claims that the man told him: "Drop [the protester's] case; the police are right. Don't meddle in this case. Mad men are out there with the state's authorization, and you know that mad men shoot."

## **HUMBERTO CAPORALLI, PAINTER AND GRAFFITI ARTIST, SÃO PAULO**

Humberto Caporalli, aged 24, took part in a demonstration for better education in São Paulo on 7 October 2013, which was organized to support teachers on strike in Rio de Janeiro. Arrested after the demonstration ended, he was charged under Brazil's National Security Law (Law 7.170/1983).

Humberto Caporalli took photographs of the protest, during which demonstrators and police clashed in the centre of São Paulo and a police car was vandalized. At the end of the demonstration, he and a friend went to a nearby bar. When they left the bar, a person Humberto Caporalli thinks was a plainclothes police officer approached them, asking questions. Moments later, armed civil police officers in a car stopped to ask what they were doing. When they replied that they had attended the demonstration, they were arrested and taken to a nearby police station.

At the police station, journalists photographed Humberto Caporalli, later filing reports on the arrest. Inside, police officers pressured him to supply the password to his Facebook account. He was then detained for two

days before a judge granted him bail. His hair was shaved and, due to prison overcrowding, he was forced to take turns with other detainees to sit, lie down and sleep.

Humberto Caporalli was charged under Article 15 of the Brazil's National Security Law for "sabotage against military installations, means of communication, means and routes of transport, shipyards, ports, airports, factories, plants, dams, depositories and other similar installations," a crime that carries a penalty of up to 10 years' imprisonment. He was also accused of criminal damage, incitement to crime, criminal association, possession of a restricted firearm and graffiti. The sum total of maximum penalties for all these crimes is 23-and-a-half years' imprisonment.

The document setting out the charges in Humberto Caporalli's case included only circumstantial evidence to justify his prosecution. It stated that the following items were found in his rucksack: four cans of spray-paint, a used tear gas canister, a camera, and a document described as a "type of manifesto in poetry with protest connotations". Based on information gathered by police from Humberto Caporalli's Facebook account, it also stated that he had "liked" a page belonging to a "black block" (anarchist) group. Finally, the document stated that Humberto Caporalli "was dressed in black in accordance with this organization's tradition".

Humberto Caporalli told Amnesty International that he is a graffiti artist, and that he had picked up the used tear gas cartridge, which had been fired by the police, to use in an artistic installation.

Humberto Caporalli's case was part of a broader São Paulo civil police investigation into "black blocks" (investigation number 1,2013, 9 October 2013). Some 300 individuals are reportedly being investigated in the case. Forty of them were summoned for questioning on 22 February 2014, a Saturday, at the exact time a protest against the World Cup was planned. Saturday is not a day on which civil police normally take statements.

Fearful because of his experience, and because of the widespread media coverage his arrest had received, Humberto Caporalli left the city of São Paulo as soon as he was released. He told Amnesty International that he does not take part in protests anymore. "I was proud to participate in the protests," he said, "but when I was arrested, it was over for me. They use a strategy of fear. I don't want to go through that again. I have anxiety attacks and haven't been able to find work: employers ask for criminal records. I was painting graffiti murals, but now I've stopped. Everything has changed."

Humberto Caporalli has no information about the progress of the charges against him.



Rafael Braga Vieira, detained after a protest in Rio de Janeiro on 20 June 2013 and sentenced to five years' imprisonment. He was accused of carrying explosives without authorization, but claims that he was carrying cleaning products. © Renata Neder

## **RAFAEL BRAGA VIEIRA, RIO DE JANEIRO**

As of 23 May 2014 only one person is known to have been tried and convicted of a crime connected to the protests. He is Rafael Braga Vieira, a black, 25-year-old homeless man.

Rafael Braga Vieira was detained after one of the biggest protest in Rio de Janeiro's history, which took place on 20 June 2013. Hundreds of thousands of people took to the streets during the protest, but Rafael Braga Vieira claims that he did not participate. The protest, which ended in clashes with the police, took place in the city's commercial centre, but after it was dispersed many thousands of people walked for long distances to get home. Some came to the Lapa neighborhood, where Rafael Braga Vieira was spending the night in an abandoned house.

Rafael Braga Vieira told Amnesty International that he was leaving the house to meet his aunt when a group of around ten police officers stopped him. He claims that he was carrying two bottles of cleaning products that he had found, as he was planning to give them to his aunt. He said:

They started shouting at me, calling me 'nigger', 'brat.' They started beating me up. They were asking: 'What do you have here? Oh, man, it's a Molotov cocktail. You're in real trouble, nigger.' I told them that the bottles were not that. At that time, I did not even know what a Molotov cocktail was. They did not care. They took me to a parking lot. They beat me up and insulted me.

Rafael Braga Vieira was prosecuted for the offence of "carrying explosives without authorization" and, in December 2013, he was convicted and sentenced to five years' imprisonment. The forensic report drawn up for the case concluded that the chemicals in his possession could not have been used for explosives, but the court disregarded this finding in reaching its verdict.

# LACK OF ACCOUNTABILITY FOR POLICE VIOLENCE

Amnesty International is concerned that there appears to be little effort to hold police officials accountable for their abusive behavior during public protests. Although some local officials, for example in São Paulo, have announced internal investigations into allegations of police violence during protests, to date the results of such investigations have not been made public. Notably, no police officers are known to have been subjected to criminal or disciplinary proceedings.

Among the obstacles to achieving accountability is the difficulty of identifying individual police officers. Victims of excessive force during demonstrations have told Amnesty International of their inability to identify the police officers responsible. This is especially true for riot police, whose protective gear generally covers their name plate. In other cases, police officers seem not to have worn identification.



Military police officers during a protest in São Paulo, 20 June 2013. © Mídia Ninja

# PROPOSED CRIMINAL LEGISLATION

A number of proposals are under discussion in the Brazilian Congress for new or amended criminal legislation that could undermine the rights to freedom of expression and assembly. These include a new counterterrorism law as well as an array of laws that directly target protests, such as laws that would ban masks and establish a prior notification requirement.

Several of the proposals were hastily drafted in the wake of violent protests, with the aim of having them passed and put into effect prior to the World Cup tournament. To the government's credit, however, it has now stated that it does not support rushing these draft laws through Congress, making it appear unlikely that any of the proposals will be voted on prior to the commencement of the World Cup in June 2014. Still, the draft laws remain under consideration in Congress, and may be passed in the future.

## DRAFT COUNTERTERRORISM LEGISLATION

Two proposals currently under discussion in the Senate, known as PLS 499/2013 and PLS 44/2014, would establish the crime of terrorism in Brazilian law.<sup>8</sup> Worryingly, the definition of terrorism used in the proposed legislation is vague and significantly broader than the definition recommended by the UN Special Rapporteur on Human Rights and Counter-Terrorism.<sup>9</sup> It covers not only crimes of violence, but also crimes against property, raising concerns that it could be used to prosecute protesters responsible for vandalism or other property damage.

On the positive side, one of the proposals (PLS 44/2014) contains a safe haven provision stating that the law would not apply to, among others, protesters with social motivations relating to the defence of human or constitutional rights. Yet this provision is insufficient to justify passage of what remains an over-broad law.

At the time of writing, neither of the proposals had gone to a vote.

## DRAFT LAWS ON PUBLIC PROTESTS

The House of Representatives is also debating a raft of proposals that directly address protests, many of them introduced quite recently. The proposals are currently in the hands of a rapporteur, Congressman Efraim Filho, who will be issuing a report evaluating the merits of the various draft laws.

Some of the proposals, meant to target so-called "black block" groups, would establish a ban on the wearing of masks during demonstrations. To the extent that these proposals would ban masks that are worn for an expressive purpose, and not simply masks worn to prevent protesters from being identified, they would raise concerns under the right to freedom of expression.<sup>10</sup>

Other proposals would require that protesters give prior notification of any demonstration to the public authorities. While Amnesty International accepts that states may require notice of assemblies and protests in order to take measures to protect public safety and order, or to protect the rights of others, protests should not be subject to the permission of government authorities. Notice requirements should include exceptions for spontaneous assemblies, and procedures relating to the format or medium in which notice must be given should be not overly burdensome.

If organizers fail to notify the authorities, the protest should not be dissolved automatically and the organizers should not be subject to criminal or administrative proceedings resulting in fines or imprisonment.<sup>11</sup> A penalty contained in one of the draft laws, which would up impose up to three years' imprisonment for failing to comply with a 48-hours advance notice requirement, would be inconsistent with the rights to freedom of expression and assembly.



Military police use tear gas indiscriminately to disperse protesters in Rio de Janeiro, 7 September 2013. © Luiz Baltar

# CONCLUSIONS AND RECOMMENDATIONS

Brazil, as a member of the UN Human Rights Council, recently voted in favor of an important resolution that the Council adopted on protecting human rights during peaceful protests.<sup>12</sup> Not only did the resolution call on states to enable individuals and groups to exercise their rights to freedom of assembly, expression and association during peaceful protests, it also expressed concern at the criminal prosecution of individuals and groups that have taken part in protests.

Brazil did the right thing by voting for the resolution, but now it needs to go further. For Brazil's support of the rights to freedom of expression and peaceful assembly to be truly meaningful, those rights should be protected at home. Amnesty International therefore urges the Brazilian authorities to ensure that Brazil's laws and practices at the domestic level are fully compliant with its international legal obligations. To this end, Amnesty International makes the following recommendations:

## EXCESSIVE USE OF FORCE BY THE SECURITY FORCES

- The police and other security forces should seek to avert violence at public protests by communicating with protest organizers prior to and during protests.
- The police and other security forces should apply non-violent means before resorting to the use of force.
- If a public protest is violent and use of force becomes necessary, for example, to protect participants or bystanders, the police and other security forces should limit such force to the minimum extent necessary.
- The police and other security forces should allow journalists, including photographers and videographers, to work freely without interference.
- "Less-lethal" weapons, such as plastic and rubber bullets, should only be used where strictly necessary, where their use is proportional to the threat at hand, and where other, non-violent means are insufficient. They should only be employed by officers who have received full training in their appropriate use.
- The Brazilian authorities at the national and state levels should ensure that the military and civil police, as well as other security forces, receive adequate and effective training for policing public demonstrations, including large-scale demonstrations. The security forces should, in particular, receive training in the appropriate use of less-lethal weapons and on international standards relating to the use of force.
- The Brazilian authorities at the national and state levels should put in place regulations for the use of "less-lethal" weapons that are consistent with international legal standards on human rights and law enforcement.

#### ARREST, DETENTION AND PROSECUTION OF PEACEFUL PROTESTERS

- The Brazilian authorities should ensure that people are not detained or criminally charged for simply exercising their right to participate in peaceful protests.
- Minor violations of the law, such as billposting, littering or minor damage to property by a specific individual or group of people may lead to investigation and eventual individual liability. However, in view of the importance of the right to freedom of assembly, this should not lead to a decision to disperse an assembly, to prevent people who are peacefully protesting from exercising their rights, or to the unlawful detention of people who were peacefully protesting.
- The Brazilian authorities should ensure that all persons detained during protests have full access to legal advice and assistance, and that lawyers have access to detained persons and can perform their professional functions without intimidation, hindrance, harassment or improper interference.

#### ACCOUNTABILITY

- The Brazilian authorities at the national and state levels should put in place and implement clear, effective and public accountability mechanisms to investigate allegations of violations by all security forces responsible for policing public protests, and ensure that those responsible for human rights violations are subject to disciplinary and criminal proceedings as appropriate.
- Any incident where injury or death has resulted from the use of force by law enforcement officials, including during public protests, must be thoroughly investigated, with the possibility for independent administrative and prosecutorial authorities to exercise jurisdiction as appropriate.
- Complaints against police must be effectively and impartially investigated, and where law enforcement officials have committed human rights violations they should be dealt with in disciplinary and criminal proceedings.
- Police and other security forces, including military forces, responsible for policing ahead of and during the World Cup must be individually identifiable during public order operations, through the use of name plates or number tags that are clearly visible. Protective gear should not be used in a way that conceals the identity of individual officers.

#### PROPOSALS FOR CRIMINAL AND OTHER LEGISLATION APPLICABLE IN THE CONTEXT OF PROTEST

- The Brazilian Congress should reject the proposed counterterrorism laws PLS 499/2013 and PLS 44/2014.
- The Brazilian Congress should take great care in assessing any draft laws relating to public protest, and should not approve any legislation that might infringe upon or jeopardize the right to peaceful assembly or the right to freedom of expression.



Military Police officers confronting protesters during a protest in Presidente Vargas Avenue, Rio de Janeiro, in June 2013. © Luiz Baltar

## ENDNOTES

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<sup>1</sup> Amnesty International uses the term "less lethal" for weapons other than firearms, in view of evidence that many such weapons have the potential to be lethal. The use of riot control devices such as water cannons, impact rounds (also known as plastic and rubber bullets or projectiles), and chemical irritants such as pepper spray and tear gas can result in serious injury and even death.

<sup>2</sup> A 2014 report by the Getúlio Vargas Foundation, a Brazilian think-tank, found that over 60 per cent of police officers believed they had not received adequate training and were not well prepared to police mass demonstrations. Fundação Getúlio Vargas, Rio de Janeiro, 2014: '*A polícia e os "black blocs": a percepção dos policiais sobre junho de 2013*'. *Relatório preliminar*. ('*The police and the "black blocs": perception of police officers about June 2013*'. *Preliminary report*)

<sup>3</sup> There are currently no standard regulations in Brazil for the use of the less-lethal weapons, even though they are widely used.

<sup>4</sup> Relevant standards include the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

<sup>5</sup> The ICCPR prohibits arbitrary arrest and detention, requiring that the police have a reasonable suspicion that the person arrested is guilty of a crime. To have a reasonable suspicion of a person's guilt, the police must have facts or information that would satisfy an objective observer that the person concerned may have committed the offence. See United Nations (2003), 'Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers', p.174.

<sup>6</sup> The law purports to cover political and social crimes against national security. Many jurists have criticized the law as being unconstitutional under Brazil's democratic constitution of 1988.

<sup>7</sup> See generally Inter-American Commission on Human Rights (1995), Report on Compatibility between Contempt Laws and the American Convention on Human Rights, OAS/Ser L/VIII.88, Doc.9 rev, pp.210-223.

<sup>8</sup> The acronym PLS stands for "Project of Law in the Senate," and refers to draft laws that are pending in the Senate. Similarly, the acronym PL stands for "Project of Law," and refers to draft laws in the House of Representatives. To be approved, draft laws must be approved both in the Senate and the House. Draft laws follow different paths to approval depending on where they were first proposed.

<sup>9</sup> Report of the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UN Doc. A/HRC/16/51, 22 December 2010, para. 28.

<sup>10</sup> See for example, Organisation for Co-operation and Security in Europe (2010), 'Guidelines on Freedom of Peaceful Assembly, Second Edition', para. 98.

<sup>11</sup> See report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/20/27, 21 May 2012, para. 29.

<sup>12</sup> UN Human Rights Council resolution 25/38 on the promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/25/L.20, 28 March 2014.

WHETHER IN A HIGH-PROFILE CONFLICT OR A FORGOTTEN CORNER OF THE GLOBE, **AMNESTY INTERNATIONAL** CAMPAIGNS FOR JUSTICE, FREEDOM AND DIGNITY FOR ALL AND SEEKS TO GALVANIZE PUBLIC SUPPORT TO BUILD A BETTER WORLD

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# “THEY USE A STRATEGY OF FEAR”

## PROTECTING THE RIGHT TO PROTEST IN BRAZIL

Thousands of people have protested in the streets of Brazil in recent weeks, as the country prepares to host the 2014 football World Cup. These protests echo huge demonstrations that took place last year on an unprecedented scale, with hundreds of thousands of people exercising their right to protest in dozens of cities.

Amnesty International is concerned that in some cases demonstrators have been met with police violence and abuse. Meanwhile, some state and federal legislators have been calling for tougher laws to give police and prosecutorial authorities more power to quell such protests. A range of legislative proposals currently pending in the National Congress may not be compliant with Brazil's international legal obligations. Brazil should ensure that individuals and groups are able to participate freely in public protests, and that, if faced with violence, police and other security forces limit the use of force to the minimum necessary.

The world's attention will be focused on Brazil during the World Cup tournament. Brazilians who are dissatisfied with their government's record of advancing social change and reducing inequality may regard the World Cup as an opportune moment to take to the streets. This will be a crucial test of whether the police and other public authorities in Brazil understand their obligation to respect the rights to freedom of expression and peaceful assembly.

Anistia Internacional Brasil  
Praça São Salvador, nº 5 - casa - Laranjeiras  
22.231 - 170 - Rio de Janeiro - Brazil  
Tel: (55 21) 3174 8601

[anistia.org.br](http://anistia.org.br)

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