

URGENT ACTION

LAW LEADING TO MILITARY IMPUNITY SANCTIONED

The Brazilian President sanctioned the law that transfers to the Military Court the ability to try human rights violations and crimes against life, such as killings and extrajudicial executions, carried out by military personnel against civilians. This contradicts the fundamental principles of fair trial, judicial independence and impartiality of the decisions. It is now up to the Attorney General to appeal to the Supreme Court to stop law from entering into force.

On 13 October, the Brazilian President sanctioned law No. 13.491 (previously numbered in Congress PLC 44/2016), which amends Law No. 9.299/2016. Under the sanctioned law Military Courts will try human rights violations, including crimes against life (murder or attempted murder, among others) committed by military personnel against civilians. This violates Brazil's obligations under international law, including the right to a fair trial, as military courts do not guarantee judicial independence. The Attorney General should now appeal to the Supreme Court in order to stop the law from entering into force, as it violates international human rights treaties and a ruling by the Inter-American Court of Human Rights.

Human rights and civil society organizations in Brazil have expressed additional concerns about the law, since it will increase impunity in the cases of human rights violations committed by the military. The UN Human Rights Committee, the UN Committee against Torture, the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights have all stated that military jurisdiction must be restrictive and exceptional, applied only to the members of the military for breaches of military discipline. In addition, the Inter-American Court has directly ruled that Brazil must refrain from using military jurisdiction to investigate and prosecute military personnel for human rights violations. The Inter-American Commission of Human Rights issued a press release on 13 October positioning itself against this Law when it was approved in the Senate.

Brazilian human rights organizations are making a final effort to stop the law entering into force by calling on the Attorney General to appeal to the Brazilian Supreme Court.

Please write immediately in Portuguese, Spanish, English or your own language:

- Urging the Attorney General to appeal to the Supreme Court against law No. 13.491 that transfers to Military Courts the responsibility to try crimes, including killings, committed by the military against civilians.

PLEASE SEND APPEALS BEFORE 6 DECEMBER 2017 TO:

Attorney General

Raquel Dodge
Procuradoria Geral da República
SAF Sul Quadra 4 Conjunto C,
Brasília, DF
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Fax: +55 61 3105-5100
Email: cmpf@mpf.mp.br

Salutation: Dear Attorney General

And copies to:

President of the National Bar Association
Claudio Pacheco Prates Lamachia
Presidente do Conselho Federal da OAB
SAUS Quadra 5 Lote 1 Bloco M
Brasília – DF
CEP: 70070-939, Brazil
Fax: + 55 61 21939600
Email: imprensa@oab.org.br

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the second update of UA 236/17. Further information:

www.amnesty.org/en/documents/amr19/7265/2017/en/

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ADDITIONAL INFORMATION

Trials by military courts of serving military personnel for alleged breaches of military discipline are not considered incompatible with international human rights standards, as long as the courts are independent and impartial and the alleged breaches are not “ordinary crimes”, violations of human rights or crimes under international law. If the offence is “criminal” in nature under human rights law, fair trial rights must be respected.

The current Superior Military Court is composed of 15 ministers, three Generals of Aeronautics, four Generals of the Army, and three Generals from the Navy. The composition of the Court is closely linked to the Armed Forces, and the military ministers of the Superior Military Courts do not dissociate themselves from the Armed Forces, according to article 3, paragraph 2, of Law No. 8.457/92.

Brazilian authorities have used the Armed Forces for policing major urban areas in a strategic attempt to contain the high levels of violence. Brazil has the highest number of murders in the world, with 59,080 murder victims in 2015. Murder rates, as well as other criminal rates, have been increasing throughout the country over the past few decades. In an attempt to fight insecurity and reduce violence, the security forces have made widespread use of extrajudicial executions. In the state of Rio de Janeiro, police killed more than 10,000 people between 2005 and 2016, while in the state of São Paulo police killed more than 2,000 people between 2015 and 2016.

Through the Law and Order Guarantee (GLO) operations, an instrument regulated by the Federal Constitution, the federal government has increasingly used the military forces to act as police in certain cities throughout the country. However, the actions of the Armed Forces not differed from the violent practices by police. In June 2007, a policing intervention with the support of the National Forces in Complexo do Alemão, Rio de Janeiro, resulted in 19 people killed, some with strong evidence of extrajudicial executions, according to independent experts. In June 2008, military personnel who had been deployed to Morro da Providência, Rio de Janeiro, were responsible for the death of three young men, who were handed over by the military themselves to a criminal group. In December 2011 a teenager was killed in Complexo do Alemão and eight military personnel were found responsible. Between 2014 and 2015 the Armed Forces remained in the Maré Complex for 15 months, a period marked by a number of human rights violations committed by the military. The most emblematic case is that of Victor Santiago, who had to amputate his leg after being shot at by the military (for more information, see *A legacy of violence: Killings by police and repression of protest at the Rio 2016 Olympics*, <https://www.amnesty.org/en/documents/amr19/4780/2016/en/>).

In the beginning of October, the Army Commander Eduardo Dias da Costa Villas Bôas publicly said that military personnel do not have legal guarantees for their performance in law and order or policing operations. He added that it is necessary to provide security to the military when in "combat" against criminals. This public statement increase concerns about the law no. 13.491, as it clearly shows the intention of opens a path to impunity.

It falls under the Attorney General's mandate to appeal to the Supreme Court in such cases.