

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

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*Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.*  
(Amnesty International Statute, Article 1(c))

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FOR ACTION ONLY BY THE FOLLOWING NATIONAL SECTIONS:

CANADA (both branches) FRANCE, FRG, NETHERLANDS, SWITZERLAND, UK, USA.

UA 51/81

Legal Concern

4 March 1981

**BRAZIL:** Luis Inacio DA SILVA ("Lula") and other trade unionists

Luis Inacio da Silva, known as "Lula", the President of the São Bernardo and Diadema Metal Workers' Union, and twelve other trade unionists were charged with offences under the Law of National Security in connection with a six week strike by metalworkers in São Paulo in 1980.

On 23 February 1981 Judge Nelson da Silva Machado Guimarães announced that their trial would take place in São Paulo on 25 February. However, lawyers defending the trade unionists tried to get the trial postponed after being informed of the restrictions being imposed which included:

- only one lawyer and one relative for each defendant to be present;
- only 14 Brazilian journalists to be allowed in the court room;
- no foreign journalists and no foreign observers to be admitted;
- no one would be allowed near the court room without army credentials.

The defence lawyers requested that they be allowed more time to prepare their case and that the trial be transferred to a larger court to enable more relatives and journalists to attend. They also requested that foreign journalists be admitted. On 25 February the Supreme Military Tribunal in Brasilia denied the request for postponement. The Judge suspended the start of the trial for one hour when neither the defendants nor their lawyers appeared. He then named new defence lawyers and the trial started in the absence of the defendants. The sentences were passed in the evening of the same day. "Lula" and three others, Djalmo de Souza Bon, Nilson Timora Simon, and Rubens Teodoro de Arruda were given sentences of three and a half years. Five received terms of two and a half years: Gilson Correa de Meneses, Osmar Santos de Mendonça, Juracy Baptista Megalhães, Manuel Anisio Gomes, José Maria de Almeida. Two year sentences were given to Wagner Lino Alves and Nelson Campanoia. Two men were acquitted: José Cicote and José Timoteo da Silva.

At 11.00 pm on 25 February the trade unionists presented themselves to the military authorities at DOPS (*Departamento de Ordem Política e Social* - Department of Political and Social Order) in São Paulo, where they spent the night. After spending 20 hours in custody they were all released the following day. They are all to appeal against their sentences to a higher military court.

The defence lawyers are trying to have the judgement against the trade unionists annulled on the grounds that it contravenes Brazilian law in that only when the defendants and lawyers in a case have failed to appear on more than one occasion can the trial go ahead in their absence.

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RECOMMENDED ACTION: Letters expressing concern that:

the eleven trade unionists were sentenced under the Law of National Security for peaceful and legitimate trade union activities; the trial proceedings were conducted in the absence of the defendants and their lawyers in contravention of Article 431 paragraph 4 of the Código Processo Penal Militar ("O julgamento poderá ser adiado por uma só vez, no caso de falta de comparecimento de acusado solto. Na segunda falta, o julgamento será feito à revelia com curador nomeado pelo presidente do Conselho.")

Unusually severe restrictions were imposed by the military judge prohibiting the attendance of suitably qualified observers which give rise to increased anxiety about whether the defendants received a fair and just trial.

APPEALS FROM LAWYERS, TRADE UNIONISTS AND TRADE UNION ORGANIZATIONS IN PARTICULAR ARE REQUESTED.

APPEALS TO:

Presidente da República Federativa do Brasil  
General João Baptista Figueiredo  
Gabinete do Presidente  
Palácio do Planalto  
70.000 Brasília D.F.  
Brazil

Ministro da Justiça do Brasil  
Ibrahim Abi Ackel  
Ministério da Justiça  
Esplanada dos Ministérios bloco B  
70.000 Brasília  
Brazil

COPIES TO:

Sr. Juiz Auditor  
Nelson da Silva Machado Guimaraes  
2a Circunscao de Justica Militar  
São Paulo  
Brazil

and to either of the following newspapers:

O Estado de São Paulo  
Av. Eng. Caetano Alvares 55  
São Paulo, Brazil

Folha de São Paulo  
Al. Barão de Limeira 425, 4º Andar  
São Paulo, Brazil

FINAL DATE FOR ACTION: 15 APRIL 1981

- Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.
- Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
  - Article 3, "Everyone has the right to life, liberty and security of person";
  - Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";
  - Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".
- The name of Amnesty International can be used unless stated otherwise; although, letters written in a private or professional capacity may be more effective.
- Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.
- In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".
- Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action coordinator. Thank the official who has replied, requesting that you be kept informed about the case.