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Brazil: Historic efforts by federal prosecutors to challenge decades of impunity for military regime

The efforts of federal prosecutors to initiate criminal investigations into past human rights violations marks a crucial moment in Brazil's history, said Amnesty International after Federal prosecutors in São Paulo charged, on 24 March 2012, retired Colonel Carlos Alberto Brilhante Ustra and police chief (delegado) Dirceu Garvina, with the kidnapping of union leader Aluizio Palhano Pedreira Ferreira in 1971.

“By challenging decades of impunity it is hoped that Brazil can finally meet its responsibilities under international law as have other countries in the region,” said Atila Roque, Executive Director at Amnesty International Brazil.

Forty-one years ago, in May 1971, Aluizio Palhano Pedreira Ferreira was arbitrarily detained by security officers of the military regime, and has not been seen by his family since. He was allegedly taken to the DOI-Codi, the department responsible for intelligence and repression under the then military government, then under the command of Col. Ustra. According to witnesses reports of the time, Ferreira was tortured while being held by the security services.

Brazil's 1979 Amnesty Law, originally created to pardon political crimes of the time, has since been interpreted to include acts of torture and extra-judicial executions by members of the regime - thus protecting them from investigation and prosecution.

Prosecutors have charged Col. Ustra and Garvina with kidnapping as, given the absence of the victim, the crime is deemed to continue beyond 1979 and thus not covered by the amnesty. Though Brazil's Federal Supreme Court (STF) recently upheld amnesties for crimes under the military regime, on two separate occasions it has ruled that the Amnesty Law does not afford protection for the crimes of forced disappearance or kidnapping. These rulings were made in two separate extradition cases, of a Uruguayan and an Argentinian military officer [Extradições 974 e 1150], in 2009 and 2011.

After years of inactivity, important advances have been made in Brazil to address the horrific crimes committed during the regime of 1964-1985, including the passing of legislation in November 2011 for the creation of a Truth Commission.

“It is essential that the victims and families who suffered torture, disappearances and killings at the hands of the military repression be guaranteed the truth, reparation and justice that is their fundamental right,” said Atila Roque.

Background Information

This is the second criminal case brought by federal prosecutors for human rights violations during the military regime. The charges against Colonel Sebastião Curió Rodrigues de Moura, brought in March 2012, for the disappearance of five guerrilla members in the state of Pará in 1974, were not upheld by a

federal judge. This decision is being appealed.

In April 2010 Brazil's Supreme Court, in a controversial ruling, upheld the use of the Amnesty Law for the grave violations committed during the military regime. A few months later, in November 2010 the Inter American Court of Human Rights found in the Gómez Lund case that the Amnesty Law was not compatible with the American Convention, that it lacked legal effect, and that it should not continue as an obstacle for the investigation, prosecution and punishment of those responsible of human rights violations.