

AIUSA 2016 State Department Country Report Critiques

Brazil

The report on Brazil acknowledges that unlawful killings by state police on and off duty occurred, and that in Rio de Janeiro State the police killed at least 410 civilians in “acts of resistance” (similar to resisting arrest). Most of these deaths occurred while police were conducting operations against drug-trafficking gangs operating in Rio de Janeiro’s poor communities and that a disproportionate number of the victims were Afro-Brazilians under 25 years of age. The reports did not mention that less than 8 percent of all homicides are investigated, let alone those committed by police.

According to the Amnesty International report [*“You killed my son: Killings by military police in Rio de Janeiro,”*](#) at least 16 percent of the total homicides registered in the city during the past five years took place at the hands of on-duty police or military police officers – 1,519 in total. For instance, in the year of 2014 in the favela of *Acari* alone, Amnesty International found evidence strongly suggesting that extrajudicial executions were committed in at least 9 out of 10 reported killings. Four of these cases involved military police officers from the Special Police Operations Battalion (BOPE). Amnesty International is investigating reports that BOPE received some type of training from the U.S. government. Lack of accountability, and impunity for homicides, especially homicides by police, has been documented by AI for decades and was also previously reported by the State Department.

If the reports are accurate, the United States should suspend licenses for further exports of firearms, ammunition and related parts to Brazilian security forces pending credible progress in investigations into allegations of a pattern of extrajudicial killings and other serious human rights violations. At the same time, the United States should -as required by the Leahy Law- stop any assistance or training to the military police units that are linked to credible allegations of serious human rights violations, including the Rio de Janeiro Military Police Special Police Operations Battalion (BOPE), until adequate steps have been taken to bring those responsible to justice.

China

The DoS’ report mirrors the concerns of Amnesty International in its emphasis on increased repression of activists involved in various types of civil rights and public interest advocacy, and in particular on lawyers and other related personnel.

A relatively new area of government intervention in freedom of speech involved the restrictions on academic freedom at universities and other institutions, which were made more stringent in 2015. (pp. 33-35).

Also notable is the draft law (not yet passed) regarding foreign NGOs: “The government-proposed Foreign NGO Management Law, as drafted, would place NGOs under the supervision of law enforcement and hinder the ability of international NGOs to continue

operating under various prohibitive requirements and by introducing possible criminal penalties” (p. 38). This has already had a dampening effect on the activities of foreign NGOs in China.

The report rightly questions the practice of indiscriminately labelling Uighurs as “terrorists” or “separatists” as a reason for abuse, detention, arrest and execution. China does not exhibit respect for the policy of non-refoulement. It has pressured border countries to return refugees and asylum seekers, including Uighurs, to China, often successfully, and in turn has returned such people to North Korean and Burma (p. 43).

The report rightly notes numerous discrepancies between the law and actual practice. It identifies some improvements in laws and regulations surrounding use of torture, re-education through labor, and the death penalty but also notes that these are not always adhered to and abuses continue, sometimes on a widespread scale. While re-education through labor has been abolished, other forms of administrative detention are still in use with similar period and types of punishment including “custody and education” for women engaged in prostitution and those soliciting prostitution, “custody and training” for minor criminal offenders, and “legal education” centers for political and religious activists, particularly Falun Gong practitioners. The law establishes a system of “compulsory isolation for drug rehabilitation.” (p.12).

The report, overall, is thorough and well-supported by external evidence. The limitations placed on NGOs and journalists regarding access to China or specific areas of China, such as the TAR, means that there is just not a complete picture of the human rights situation. Similarly, China’s unwillingness to publish full information about the use of the death penalty means that we do not know the extent of executions there. In addition to concerns about arbitrary or unlawful deprivation of life and the involuntary nature of obtaining organs from death row prisoners, Amnesty International opposes the death penalty in all cases.

From the recent death penalty statistics [report](#) put out by Amnesty International: China remains the world’s top executioner. Although Amnesty International does not publish any figures for China, the organization believes, based on ongoing monitoring of developments in the criminal justice system that China’s executions remain in the thousands annually.

However there are indications that the number of executions has decreased since the Supreme People’s Court began reviewing the implementation of the death penalty in 2007. China continued to impose death sentences and carry out executions for a wide range of offences that did not meet the threshold of the “most serious crimes” to which the death penalty must be restricted under international law. These offences included drug related crimes, economic crimes such as embezzlement and taking bribes, rape and, to a lesser extent, arson.

Foreign nationals, mostly from other Asian countries but also from South America, continued to be sentenced to death and executed in cases related to drug trafficking. Amnesty International believed that the death penalty continued to be used against members of the Uighur minority as part of China's "Strike Hard" campaign, targeting "violent terrorism and religious extremism."

Amnesty International's definition of "political prisoner" differs from that of the Department of State. With that in mind, there are cases followed by Amnesty International that were not mentioned in the report:

Liu Ping

Grassroots activist Liu Ping was sentenced to six and a half years in prison for "picking quarrels and provoking troubles," "gathering a crowd to disturb order in a public place," and "using an evil cult to undermine law enforcement," on June 19, 2014. According to her, she was tortured in pre-trial detention in June 2013, and has been denied adequate medical care. She is currently appealing her conviction and sentence. Liu Ping is a prisoner of conscience.

Liu Ping told her daughter that her stomach problem was getting worse, and although she was given medication, she had not been sent for a medical assessment. We are increasingly concerned about her health situation, and will be monitoring the situation to decide whether further action is needed. Liu Ping also told her that she sent her at least three letters from the prison but she had not received them.

We have learnt that in addition to her ongoing health problems, Liu Ping is also having problems with her vision. On a few occasions she has temporarily become blind, and it took her almost a month to write just one letter to her family. She has not been provided with any medical care for this. (Dec.)

Yang Tongyan

Yang Tongyan, a freelance writer and a member of the Independent Chinese PEN Centre, is serving a 12-year sentence for "subversion," in Nanjing Prison in Jiangsu province. He is due to be released on December 22, 2017. His conviction was based on his writings in support of political and democratic change in China. He was offered to be released early if he signed a "confession" letter, but refused.

Abdukiram Abduveli

Abdukiram Abduveli, a religious leader, has now spent over 22 years in prison. He has been repeatedly held in solitary confinement and routinely denied access to his family. He is in critical ill-health. On May 6, 1993 he was given a 12-year sentence, including four years suspension of political rights, for "organizing a counter-revolutionary group" and "carrying out counter-revolutionary propaganda and inciting the overthrow of

political power [of the dictatorship of the proletariat and the socialist system]". His sentence has been repeatedly extended.

Other areas of concern that could have been highlighted more were the abduction of the [Hong Kong booksellers](#) and the expansion of the Ministry of State Security operations to Hong Kong (mentioned briefly on p. 4 and 97), [the Anti-Espionage Law and National Security Law](#) of July 2015 (which was mentioned only once but seems to be a new avenue for repression), and the harassment of feminists and women's rights activists, including the Beijing "feminist five" (mention on p. 4 and 53).

Colombia

The State Department's 2015 Human Rights Report for **Colombia** offers a detailed look at Colombia's continuing human rights crisis. Despite progress made towards a negotiated peace agreement the conflict continues to have a negative impact on the human rights of the civilian population, especially Indigenous peoples, Afro-descendant and peasant farmer communities, and human rights defenders. As the report indicates, the security forces, guerrilla groups and paramilitaries were all responsible for crimes under international law.

Most disturbing is the fact that despite lack of progress in tackling impunity and prosecuting high level military officials responsible for human rights crimes, the Department of State continues to release the 25 percent of U.S. military aid contingent upon such progress. This current report should serve as clear evidence that Colombia has failed to make significant progress and should not qualify for any further U.S. military aid.

Despite reporting on significant failures in human rights protection, the State Department's report on property restitution efforts fails to include any criticism of Law 1753 which legitimizes the use of land obtained through human rights abuses for the economic interest of companies. Law 1753, approved by Colombia's congress in June 2015, could make it easier for companies to set up operations on misappropriated lands or lands over which control has been secured through human rights violations and abuses, including on territories collectively owned by Indigenous people and Afro-descendent communities.¹

While the report addresses some concerns of persistent impunity for members of the armed forces, it is supportive of Colombia's Legal Framework for Peace. Amnesty International is concerned that such policies could institutionalize impunity. For example, the government steered through approval of legislation – such as Legislative

¹ These comments came from recent AI reports:

<https://www.amnesty.org/en/latest/news/2015/11/colombia-must-prioritize-rights-of-indigenous-people-and-afro-descendant-communities-above-economic-interests/>
<http://www.amnestyusa.org/news/press-releases/colombia-national-development-plan-threatens-to-deny-the-right-to-land-restitution-to-victims-of-the>

Act No 1 amending Article 221 of the Constitution and Law 1765 – that threatened to increase the already high levels of impunity. Colombia must not allow the peace process to increase immunity for state or non-state actors. Amnesty remains extremely concerned about the increasing number of killings of political, community and human rights activists across the country in light of the peace talks.

The report also mentions an existing program to assist Colombian refugees returning from Ecuador. It is worrisome that the Colombian government is allegedly offering incentives for refugees in Ecuador to return to Colombia while it is clear that the state is still unable to offer protection to people of concern, particularly Afro-Colombian refugees. Based on the DoS report, Colombia is not yet prepared for repatriation of its citizens.

The 2015 State Department Human Rights report on Colombia reflects a nation still in the midst of a human rights crisis. The increasing violence against human rights defenders, labor and land rights activists, Afro-Colombian leaders and Indigenous communities is of particular concern.

Democratic Republic of the Congo

In general, the report is quite comprehensive.

There are several cases of weak diplomatic language. Of the 2011 presidential and National Assembly elections, the report says that “many local and international observers characterized [them] as lacking in credibility and seriously flawed. Civilian authorities did not always maintain control over the security forces.” One wonders whether the State Department shares this view. Surely some of the abuses by security forces during the election period were intended by the authorities and not simply due to lack of civilian control.

In contrast, the summary of human rights abuses in general is written in direct, unambiguous language.

Other examples of disappointing understatement include noting that impunity for human rights abuses by security forces remained a “severe problem” and authorities “did not prosecute or punish many of the abusers.”

So-called rebels and militias “continued to operate and commit abuses, primarily in the East, but also in Katanga and Orientale provinces.” The government took military action against some rebel and militia groups “but had limited ability to investigate abuses and bring the accused to trial. “ This “diplomatic” wording makes one wonder, did the government even try to bring anyone to trial.

The DoS notes “numerous reports” of killings by government forces or agents, in connection with the national elections to be held later in 2016 or military operations in

the eastern provinces. Human Rights Watch had reported that security forces killed at least 21 civilians in Kinshasa in January 2015 in protests against a legislative proposal perceived to promote delay of the presidential elections. One policeman was killed in the same context.

The State Department noted reports that state forces had committed arbitrary or unlawful killings in operations in the East, and that military courts had convicted four army officers for killings associated with the fight against the ADF-NALU. However, there is reason to believe that some of the violence attributed to the ADF-NALU (supposedly a Uganda-based, Islamist movement) may in fact be committed by Congolese army personnel or by other armed Congolese. In March 2016, a Congolese Catholic priest, Father Vincent Machozi, was gunned down by men in Congolese army uniforms, in apparent response to a message he had posted on the internet, blaming presidents Joseph Kabila and Paul Kagame for the ongoing violence in the Beni area. A few days later, American researcher Jason Stearns was expelled from DRC, in apparent response to his questioning of the official line on the Beni violence.

The State Department report includes the following summary of the cases of Fred and Yves and other youth activists arrested in March 2015:

“On March 15, security forces detained approximately 30 Congolese, Senegalese, and Burkinabe activists during a press conference for a civil society event on youth political participation. The Burkinabe and Senegalese were eventually deported, five activists escaped to Tanzania (and then to Europe), and the activists from the Congolese youth movement Filimbi (“whistle blower” in the local language) were detained by the ANR for a number of days without explanation and without access to legal counsel. In the weeks after March 15, the ANR released the Filimbi activists and others in a piecemeal fashion, with the final two activists, Fred Bauma and Yves Makwambala, released from ANR custody but transferred to a state prison in late May (where they had regular contact with legal counsel). Bauma and Makwambala remained in pretrial detention, charged with attempted attack on the head of state’s life, attempted coup, and treason.”

Not mentioned here but worth bearing in mind is the fact that the “civil society event on youth political participation” was sponsored in part by the U.S. Embassy. Those arrested at the press conference included Kevin Sturr, a USAID official with the agency’s democracy and good governance program in DR Congo.

The charges against Bauma and Makwambala were not supported by the evidence. Bringing in Senegalese from “Y en a marre” (That’s enough) and Burkinabe from “Balai Citoyen” (Citizens’ broom) was meant to promote a non-violent model of political change. President Kabila and his associates apparently regard that as a threat, particularly since the president’s second full term expires in December.

Egypt

The DoS report presents a convincing picture of human rights violations by military and security officials. What it fails to do is to acknowledge that U.S. arms sales and training may be complicit in the very abuses the DoS report documents. There is a clear pattern that weapons of the type being sold by the U.S. to Egypt have been used to commit serious human rights violations by the Egyptian military and security forces documented in the DoS report.

Ethiopia

The report is comprehensive and details the extent of repression under the EPRDF government. Ranging from sweeping legislation that has crushed civil society to the harassment and intimidation of any voice of dissent or criticism of the ruling party. It also highlights the ongoing crackdown in Oromia where there have been growing calls for an independent investigation into the killings of possibly over 400 people.

However, the report conveys an erroneous impression about the issue of who controls the security forces. It states, “the Civilian authorities generally maintained control over the security forces, although local police in rural areas, the Somali Region Special Police, and local militias sometimes acted independently.” This is not the case. Indeed the opposite holds true. Whether it is in rural or urban areas, the security forces are in practice giving orders to the civilian authorities. This is especially true in the Oromia region where the regional police as well as federal police give orders to a civilian administration and the judiciary.

The report also fails to discuss the issue of land grabbing and the unconstitutional and forceful eviction of people from their homes and farmlands. This has been the ongoing issue for years, and those who protested against the acts of the government were killed during protests in 2015 and before. It has to be underlined that the ongoing protest in Oromia region is a result of this issue.

The report tries to raise the issue of torture, but is not strong enough and uses diplomatic language to describe abuses. For example, it says “in some cases” or “reportedly tortured.” In Ethiopia, torture is norm, not the exception, for political prisoners.

Mexico

The Tlatlaya massacre

The DoS report fails to mention the implications of the Tlatlaya massacreⁱ by members of the 102nd Infantry Battalion in relation to U.S. military aid. According to declassified documents obtained by the National Security Archives, the Department of State itself decided to suspend assistance to the 102nd Infantry Battalion unit involved in the massacre. A cable dated Jan. 14, 2015 from the U.S. Northern Command confirmed that the 102nd Battalion was ineligible to receive assistance.

The DoS report also fails to mention that just weeks before the massacre the National Secretary of Defense (SEDENA) issued an order for soldiers to “take down criminals” (meant as “to kill” in this context).

The report fails mention that the federal Attorney General’s office did not investigate any military officers or others with command responsibility who failed to prevent or stop these crimes.

The report also failed to mention that for the second consecutive year, the authorities published no statistics on the number of people killed or wounded in clashes with the police and military forces, as part of the fight against organized crime.

The report avoids the term “enforced disappearance” but acknowledges “forced disappearances” by both Mexican security forces and organized criminal groups. The subtle difference is important as the former has a legal definition under international law.²

The report mentions the Mexican government’s report as of September 2015 as stating that there are ,25,230 people “missing or disappeared.” Amnesty International’s report indicates that by the end of the year the government’s report stated 27,638 people were missing. More importantly however the report fails to explain that the Mexican government’s report does not specify how many were subjected to enforced disappearance.

The DoS report fails to mention the UN Committee on Enforced Disappearances (CED) conclusive report on Mexico, in which it determined that disappearances are widespread in the country, and urged the government to take measures to prevent them and to solve the pending cases. The CED provided specific recommendations but the Mexican government disregarded them as “not contributing additional elements” (*no aportan elementos adicionales*) to address the problem. Amnesty International stated at the time that “the Mexican government seems unwilling to acknowledge the severity of the crisis, and its position in relation to these recommendations may signify that it will ignore any criticism of its failed strategies on public security. This decision is extremely alarming in the fragile human rights context facing the country.”

The DoS report fails to mention that the federal law that criminalizes enforced disappearance fails to comply with the definition of enforced disappearance provided by

² According to the [Declaration on the Protection of All Persons from Enforced Disappearance](http://www.un.org/en/events/disappearancesday/background.shtml), proclaimed by the General Assembly in its resolution 47/133 of 18 December 1992 as a body of principles for all States, an enforced disappearance occurs when: "persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law." <http://www.un.org/en/events/disappearancesday/background.shtml>

the Convention on Disappearances. It imposes criminal responsibility for enforced disappearances on public servants, but it does not impose criminal responsibility on a perpetrator when the enforced disappearance is “committed by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence” of the state. In consequence, prosecutors could claim they have no authority to investigate or prosecute a whole subset of potential enforced disappearance cases recognized under international law.

In regards to the Ayotzinapa investigation, the Department of State does not acknowledge the massive repudiation of this incident by Mexican society and the international community, nor the grave falsehoods of the official report (historical truth as stated by the federal Attorney General).

The DoS report validates the Mexican government official statement of September 2015 that “foreign forensic experts had identified the remains of a second student”. *The Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense-EAAF)* were not present when the alleged remains were found and therefore the EAAF could not support the government’s conclusions as to the source of the human remains. The tests conducted by Austrian forensic experts from Innsbruck Medical University, allegedly identifying a piece of bone as belonging to a second student were not conclusive. Amnesty International stated at the time that the Mexican authorities’ baseless claims to have identified the remains of a second student “reek of desperation and of a cruel attempt to show they are taking action ahead of the one year anniversary of the student’s enforced disappearance.”

The report fails to report on the magnitude of the widespread use of torture and CID treatment by law enforcement and investigative officials. AI has called the use of torture in Mexico an epidemic³. As in previous years, the special medical examination procedure of the Federal Attorney General’s Office for cases of alleged torture was not applied in most cases, with a backlog of more than 1,600 requests on file. Officials generally failed to apply the procedure in compliance with the principles of the Istanbul Protocol. In many cases, investigations into torture and other ill-treatment did not advance without the presence of an official examination. Independent medical experts continued to face obstacles to carry out their work and have their examinations accepted as evidence in criminal trials.

The DoS report fails to make any assessment of the validity of the number of “*inhuman or degrading treatment*” and torture complaints’ received by the CNDH.

Representatives from many Mexican human rights organizations stated that the CNDH under its current leadership has not fulfilled its constitutional mandate, noting that the organization has been “inefficient,” “legitimizing,” and even “compliant” with the

³ Paper Promises, Daily Impunity: Mexico’s Torture Epidemic Continues. AMR 41/2676/2015

abuses of power by public figures. Such failures by the CNDH encourages impunity and undermines the rule of law.⁴ Amnesty International has also found that official records on torture and ill-treatment across the country are inaccurate, contradictory and incomplete –which undermines the obligation of the state to properly prevent, investigate and punish torture and ill-treatment.

Mexico's commitments to prevent and punish torture are extensive. However, this has yet to translate into effective measures to protect people from torture and punish those responsible. The government has not demonstrated that torture and other ill-treatment are being addressed properly to ensure it will be eradicated.

Nigeria

The report is thorough and comprehensive.

It is also depressingly reminiscent of previous reports that detail consistent abuses by the various ranches of the Nigerian security forces and the continuing culture of impunity for those abuses. The report also highlights the growing crisis of internally displaced persons and the ongoing lack of plans to respond to the over 2 million internally displaced persons. The report also does a good job of highlighting continued discrimination against women and members of the LGBT community.

Russia

The Department of State provides a thorough report on human rights concerns in Russia. The chapter, which is 75 pages in length, covers a wide range of issues and highlights three broad areas of concern:

1. Restrictions on the ability to choose one's government and freedoms of expression, assembly and association, and media and internet freedom
2. Political prosecutions and administration of justice
3. Government discrimination against racial, ethnic, religious and sexual minorities

In these areas, the State Department's message correlates with the human rights concerns of Amnesty International. With regards to the first item, the State Department's report has been strengthened relative to the 2014 report. In particular, the inclusion of media and internet freedom resonates with the concerns highlighted by Amnesty International.

The discussion of discrimination and societal abuse of the LGBTI community is also strong.

⁴ Source: La Jornada, August 19, 2014

The report continues to highlight the ongoing tensions with Ukraine following the annexation of Crimea as negatively affecting the human rights situation in Russia and states that the Russian government has used the conflict to ‘stoke nationalism and stifle dissent domestically’. This sentiment is reflected in Amnesty’s recent report as well as in its work on issues concerning restrictions to freedom of expression and flaws in Russia’s criminal justice system.

Saudi Arabia

This year’s report heavily cited reports from human rights organizations that exposed human rights concerns with the Saudi-led campaign in Yemen. It would have been better had the Department of State taken the next step of using their own documentation, as well as that of the human rights community and turned it into actual policy.

Amnesty International has called on the U.S. and all countries providing arms to actors in the Yemen crisis to take steps to ensure these weapons aren’t being used in human rights violations. Amnesty International would like the U.S. to make a strict legally binding guarantee that the end use of those arms will be in line with international law and those arms transfers will not be used to commit violations in Yemen.

Turkey

The Turkey report is comprehensive, exhaustive, and tracks with Amnesty’s reporting. Sadly, it was long delayed in coming out, which has reduced its effectiveness. One note: since the end of 2015, the death toll of civilians in the southeast has dramatically increased; freedom of press and speech as worsened, and the situation for women has not improved.

ⁱ In 2014 in Tlatlaya, state of Mexico, Mexican soldiers killed 22 people who allegedly belonged to a gang. The authorities claimed that the event was a shootout with gunmen, but the National Human Rights Commission and a special congressional commission of inquiry separately concluded that a majority of people were shot when they no longer posed a threat.