



**For immediate release – 15 May 2008**

**BRAZIL: Marijuana March prohibited, demonstrators detained  
in clear violation of freedom of expression**

**ARTICLE 19 strongly condemns a series of judicial decisions prohibiting a march for the legalisation of marijuana in nine Brazilian capitals. The marches were scheduled to take place on 4 May 2008 in ten different cities, but state courts issued preliminary injunctions prohibiting the marches in nine of them. ARTICLE 19 is also appalled by the detention of around 20 demonstrators who attended the marches.**

The Marijuana March is a global movement for the legalisation of marijuana, with demonstrations carried out in more than 20 countries. In Brazil, a series of judicial decisions prohibited the marches with the argument that they had the intention of disseminating and stimulating drug use – which supposedly configures “apology and instigation to crime”, according to the decisions. In at least four cities, police detained demonstrators or forced protestors to disburse.

The decisions prohibiting the marches are based on article 287 of the Brazilian Penal Code, which defines as a crime the act of “publicly making an apology for a criminal act or for the author of a crime”, and article 33 of Law 11.343, which establishes the crime of “inducing, instigating or helping someone to use drugs”.

In Rio de Janeiro, one of the cities where the event was prohibited, police detained one demonstrator for alleged “apology to crime” and “disobedience of a judicial order”. The reason: he attended the march with a dog which had a poster on his back calling for the legalisation of cannabis. The local press reported that the demonstrator was released after testifying at a police station.

On 21 April 2008, police in Rio had also detained five people for distributing pamphlets announcing the Marijuana March. “The pamphlets simply advertised the march, they did not suggest the use of drugs; but we were detained for making an apology to crime”, sociologist Renato Cinco, one of the organizers of the march in Rio, told ARTICLE 19. He and his four colleagues were taken to the police station to testify, and were released after signing a document in which they agreed to be heard in a special Criminal Court for minor offences.

In João Pessoa, the capital of Paraíba State, in the Northeast of Brazil, demonstrators organised a “March for Democracy” after the state court issued an injunction prohibiting the Marijuana March. Police disbursed demonstrators using rubber bullets and spray gas, and in the process wounding some of the demonstrators, the organisers of the March told ARTICLE 19. Nine demonstrators were arrested. “They put us in jail, we had to take off our clothes, standing only in underwear. Some people were detained for five hours”, Fábio Sena, an organiser of the march in João Pessoa, told ARTICLE 19.

In Salvador, the capital of Northeastern state of Bahia, eight people were detained, some for carrying material for the legalisation of marijuana, according to reports by the local press. In Curitiba, the capital of Paraná, in the South of the country, police reportedly checked 90 demonstrators and detained six of them, according to the organisers of the march.

ARTICLE 19 considers the judicial decisions prohibiting the marches, the detention of demonstrators and the use of violence to scatter peaceful protests very serious violations against freedom of expression and freedom of assembly, which are guaranteed by international human rights instruments and by the Brazilian Constitution.

The marches did not have the intention of disseminating or supporting drug use. Instead, they intended to propose changes in national legislation. Demonstrators did not intend to distribute illegal products or entice drug users and sellers; they simply wanted to express a point of view. Freedom of expression is a fundamental human right which protects the free flow of opinions and ideas in societies. As a result, it includes the freedom of every person to express ideas on contentious issues, including those that are considered immoral or illegitimate by some sectors of society.

The argument according to which discussing the legalisation of marijuana is a criminal conduct in itself – consisting of an apology or instigation to crime – is completely inadequate. There is a fundamental difference between expressing an opinion and inciting others to commit a crime. The criminalisation of certain behaviour in society requires ongoing public debate. Only a broad discussion on these issues, with effective participation of diverse groups holding different views and opinions, can legitimise the criminalisation or decriminalisation of certain acts.

Besides that, the concept of “apology to crime”, used to detain some demonstrators and prohibit the marches, is too vague to justify a restriction on freedom of expression. Freedom of expression can only be subject to restrictions when a certain discourse causes real, concrete and imminent danger for the occurrence of a crime.

ARTICLE 19 strongly condemns the judicial decisions prohibiting the marches, as well as the unreasonable detention of demonstrators who were peacefully exerting their right to express an opinion. ARTICLE 19 calls on the Brazilian Judiciary to review these restrictive decisions, and urges state governments to provide the necessary conditions to guarantee that everybody can freely express their opinions and ideas without any interference, including through peaceful demonstrations, even when discussing controversial issues.

#### **NOTES TO EDITORS:**

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- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.