



# BRAZIL

SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION

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# INTRODUCTION

This submission is submitted in advance of the review of Brazil under the International Convention on the Elimination of All Forms of Racial Discrimination in November 2022. It focusses on Brazil's failure to address racial and structural discrimination, the situation of economic and social rights of the Afro-Descendant<sup>1</sup> population, and the restrictive environment for Afro-Brazilians to exercise their civil and political rights, as well as through political participation. It further expresses the organization's concerns regarding the criminal justice system, unlawful killings, extrajudicial executions, and the excessive use of force by law enforcement officials through a lens of institutional racism. Lastly, it also raises concerns about the human rights situation of structurally discriminated groups, among them the situation of Black, Indigenous, and Quilombola<sup>2</sup> women<sup>3</sup>, as well as concerns about violence related to land disputes with worrying numbers of attacks against Indigenous and Quilombola peoples. This submission mainly refers to articles 2, 5, and 6 of the Convention and should not be seen as an exhaustive account of the organization's concerns.

## THE STATE'S FAILURES TO ADDRESS RACIAL AND STRUCTURAL DISCRIMINATION

### STATE'S FAILURES TO ADDRESS SYSTEMIC RACISM

In May 2021, Brazil ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.<sup>4</sup> In 2021, a Federal Supreme Court ruling asserted that racial slur is equivalent to the crime of racism, that is, it is an imprescriptible and non-bailable crime<sup>5</sup>. Brazilian anti-racist legislation aims not only at racial discrimination itself but also at the advocacy of racial hatred, in line with art. 20 ICPPR<sup>6</sup>.

Historically, the Brazilian State has failed in addressing systemic racism and its manifestations in culture, institutions and individual behaviours. Brazilian institutions have been ineffective in pursuing their legal obligations to counter racial discrimination.<sup>7</sup> The Ministry of Women, Family and Human Rights documented an increase in complaints of racial slurs in 2021<sup>8</sup>. In 2021, every day, at least one person was a victim of racial discrimination in the state of Rio de Janeiro. 1,365 occurrences of racial slurs in 2021 were documented in that state, and 56% of the victims were Black women.<sup>9</sup> A significant increase in complaints

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<sup>1</sup> In this document, the term Afro-Brazilian is used to refer to the population groups that identify themselves as Black, according to the categories established by the population census of the Brazilian Institute of Geography and Statistics, which encompass both categories "Black" and "pardo." On the other hand, the term Afro-descendant is used to refer not only to the population that identifies as Black in the population census but also to the Quilombola population, which until 2022 had never been included among the ethnic-racial categories in population censuses. The term Afro-descendants is also used to mention situations involving migrants and refugees.

<sup>2</sup> Afro-descendant communities, similar to tribal communities, considering international standards.

<sup>3</sup> In this document, the term "women" refers to both cisgender and transgender women.

<sup>4</sup> Brazil, Decree No 10,932, 2022, [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2019-2022/2022/Decreto/D10932.htm](http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2022/Decreto/D10932.htm)

<sup>5</sup> A Draft Bill Law that aims to convert racial slurs into the crime of racism was approved in the Federal Senate and is pending in the Chamber of Deputies. Such Bill also intends to increase the maximum penalty for the crime of racism. See Congresso em Foco, <https://congressoemfoco.uol.com.br/area/congresso-nacional/senado-pauta-projeto-que-equipara-injuria-racial-a-racismo/> (accessed on 22 October 2022)

<sup>6</sup> Brazil, Law No 7.716, 1989, [http://www.planalto.gov.br/ccivil\\_03/leis/l7716.htm](http://www.planalto.gov.br/ccivil_03/leis/l7716.htm), Article 20 specifically refers to inciting discrimination.

<sup>7</sup> After more than 30 years of the law criminalizing racism, being convicted is still a rarity. See Correio Braziliense, "Após mais de 30 anos da lei do racismo ser condenado ainda é raridade" ["After the law criminalizing racism completes more than 30 years, being convicted is still rare], 20 November 2021, <https://www.correio braziliense.com.br/brasil/2021/11/4964320-apos-mais-de-30-anos-da-lei-do-racismo-ser-condenado-ainda-e-raridade.html>

<sup>8</sup> CNN Brazil, "Ministério dos Direitos Humanos recebeu 1019 denúncias de injúria racial" [Ministry of Human Rights received more than 1019 denounce of racial slur], 20 November 2021, <https://www.cnnbrasil.com.br/nacional/ministerio-dos-direitos-humanos-recebeu-1-019-denuncias-de-injuria-racial-em-2021/>

<sup>9</sup> Rio de Janeiro Public Security Institute, "Data on racial discrimination", <http://www.isp.ri.gov.br/Noticias.asp?ident=527> (accessed on 22 October 2022)

of racism and racial slur was also registered in the state of Sao Paulo in the first 4 months of 2022. 24 cases were registered in the first four months of 2021 and 174 cases were registered in 2022 in the same period<sup>10</sup>.

Currently, endorsement and incitement to racism are encouraged by public authorities. Situations of denials of racism, reinforcement of racist behaviours, and hostility against Black people have become commonplace. Data gathered by the National Coordination of Quilombos (Conaq) and Terra de Direitos recorded 94 public authorities' speeches inciting racism since the beginning of Bolsonaro's administration (from January 2019 to December 2021)<sup>11</sup>. These public authorities' speeches were aimed at reinforcing harmful racial stereotypes, calling racism and slavery into question, and raising hostility against Black people's rights, especially affirmative actions. The public authorities' speeches reinforce and legitimize the ongoing process of dismantling racial equality and combating racism in public policies.

## CONSTRAINTS ON PUBLIC POLICIES TO COMBAT RACISM AND PROMOTE RACIAL EQUALITY

Since the mid-1990s, Brazilian Black movements have managed to expand public policies and access to rights to the Black population<sup>12</sup>. Examples of results in this area are a) institutionalization of an affirmative action programme for Black students' admission in the federal higher education system<sup>13</sup>; b) creation of a specific agency with responsibilities regarding promoting racial equality and combating racism at the national government level with the elaboration of national plans for racial equality<sup>14,15</sup>; c) creation of public bodies responsible for racial equality policies at some state and municipal governments<sup>16</sup>; d) establishing participatory councils and public conferences for racial equality policies within the framework of national and subnational governments<sup>17</sup>; e) approval of the Racial Equality Law<sup>18</sup> and the Law of Racial Quotas in the Federal Public Service<sup>19</sup>; f) setting up a National Comprehensive Health Policy for the Black population within the scope of the Unified Health System; and g) approval of a specific law that made the teaching of African, Afro-Brazilian, and Indigenous history and culture compulsory in primary and secondary school<sup>20</sup>. According to the Racial Equality Law, within the National System for Promoting Racial Equality, subnational governments are responsible for elaborating<sup>21</sup> and institutionalizing participatory councils regarding racial equality policies, which establishes responsibilities for the federal government's coordination of policies at different levels and the allocation of resources.

These advances are limited and were not able to tackle the multiplicity of mechanisms that operate systemic racism, nor reverse the rates of racial violence and the disadvantaged socio-economic condition of Afro-

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<sup>10</sup> Ombudsman of the Department of Justice and Citizenship of the state of São Paulo, "Data on racism and racial slur", <https://agenciabrasil.ebc.com.br/radioagencia-nacional/direitos-humanos/audio/2022-05/denuncias-de-racismo-e-injuria-racial-crescem-em-sao-paulo> (accessed on 22 October 2022)

<sup>11</sup> Conaq and Terra de Direitos, "Quilombolas contra racistas" ["Quilombolas against racists"], <https://quilombolascontraracistas.org.br/> (accessed on 22 October 2022)

<sup>12</sup> Due to the long-standing Black movements' advocacy, Latin America and the Caribbean countries have been able to expand policies to combat racism, promote racial equality, and ensure some form of government mechanisms to coordinate policies relating to the Afro-descendant population in the last decades. See ECLAC, *Afro-descendants and the matrix of social inequality in Latin America*, 2021, [https://repositorio.cepal.org/bitstream/handle/11362/46871/1/S2000927\\_en.pdf](https://repositorio.cepal.org/bitstream/handle/11362/46871/1/S2000927_en.pdf), pp. 36-37.

<sup>13</sup> Brazil, Law No 12,711, 2012, implemented quotas for disadvantaged groups and Afro-Brazilian students in the federal education network, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2012/lei/l12711.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12711.htm)

<sup>14</sup> Special Secretariat for the Promotion of Racial Equality, *Promoting racial equality. Brazil without racism*, 2016, [https://www.gov.br/mdh/pt-br/noticias\\_seppir/noticias/2016/05-maio/seppir-lanca-livro-sobre-a-trajetoria-e-principais-conquistas-da-politica-de-promocao-da-igualdade-racial/copy4\\_of\\_SEPPIRPromovendoaIgualdadeRacialParaUmBrasilSemRacismo.pdf](https://www.gov.br/mdh/pt-br/noticias_seppir/noticias/2016/05-maio/seppir-lanca-livro-sobre-a-trajetoria-e-principais-conquistas-da-politica-de-promocao-da-igualdade-racial/copy4_of_SEPPIRPromovendoaIgualdadeRacialParaUmBrasilSemRacismo.pdf), pp 25-26.

<sup>15</sup> Brazil, Decree No. 6,872/2007, National Plan for the Promotion of Racial Equality – PLANAPIR, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2009/decreto/d6872.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/decreto/d6872.htm)

<sup>16</sup> Some examples are the Secretary for the Promotion of Racial Equality in the state of Bahia and the Extraordinary Secretary for Racial Equality in the state of Maranhão. In some states and municipalities, racial equality responsibilities are integrated into agencies responsible for justice, social protection, women's rights, or human rights. It was not possible to ascertain the current state of these bodies for this information note.

<sup>17</sup> The National Council for the Promotion of Racial Equality - CNPIR is a collegiate body of an advisory nature, part of the basic structure of the National Secretariat for Policies for Racial Equality Promotion, within the Ministry of Women, Family and Human Rights – MMFDH (Law No. 10,678/2003, Decree No. 4,885/2003, and Decree No. 6,509, of July 16, 2008). Examples of states that at some point institutionalised participatory councils for the promotion of racial equality: Ceará, Minas Gerais, Mato Grosso, Paraná, Pernambuco, and Rio de Janeiro. It was not possible to ascertain the current state of operation of these councils for this information note.

<sup>18</sup> Brazil, Law No 12,288, 2010, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2010/lei/l12288.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2010/lei/l12288.htm)

<sup>19</sup> Brazil, Law No 12,990, 2014, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2014/lei/l12990.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/l12990.htm)

<sup>20</sup> Brazil, Law No 10,639, 2003, [http://www.planalto.gov.br/ccivil\\_03/leis/2003/l10.639.htm](http://www.planalto.gov.br/ccivil_03/leis/2003/l10.639.htm)

<sup>21</sup> Examples of states and municipalities that at some point institutionalised plans to promote racial equality are Sao Paulo, Pernambuco, Paraná, Paraíba, Salvador (state of Bahia), Diadema (state of Sao Paulo). It was not possible to ascertain the current state of implementation of these plans for this information note.

descendants<sup>22</sup>. Despite the positive results of affirmative action in universities, Brazil is still far off from having policies that create effective equal access to goods and resources for the Black population.

## DISMANTLING OF POLICIES FOR AFRO-DESCENDANTS

In 2020, a preliminary technical report prepared by the Chamber of Deputies Consulting Services on the Budgetary and Financial Oversight and the Legislative Consulting Services described the full dismantling of public programmes aimed at promoting racial equality in Brazil<sup>23</sup>. The *Juventude Viva* Programme, aimed at preventing and combating the homicide of young Black people was discontinued in 2019. The Gender and Race Equality Programme, which encouraged new ways of management with a focus on gender and racial disparities in the workplace, was suspended in late 2018. The National Comprehensive Health Policy for the Black Population has not been implemented in practice, at least since 2019. The National Permanence Grant Program, which supports the continuation of studies at universities for vulnerable groups, namely Quilombola and Indigenous students, suffered a reduction in resource allocation. In 2021, the federal government executed a budget 8 times lower regarding policies to combat racism and racial equality, when compared to 2019. Also, very few resources were executed and allocated to meet the needs of the Quilombola communities. The federal resources allocated for Quilombola land titling are negligible.<sup>24</sup>

The federal agencies responsible for combating racism and promoting racial equality became hostile to the cause of the Black and Indigenous movement and anti-racism.<sup>25</sup> The case of the Palmares Foundation is emblematic: the main public agency responsible for the valorization of the Black culture whose former president became popular due to frontal attacks against Black movements, Black activists, and the discrediting of Black people's lived experience of racism.<sup>26</sup>

## LACK OF COMPREHENSIVE PUBLIC DISAGGREGATED DATA

Despite significant advances,<sup>27</sup> the problem of the statistical invisibility of the Black population in Brazil is still serious and needs to be addressed urgently. An example is the federal government's resistance to specifying the data on Afro-descendants' infection and mortality rates from COVID-19.<sup>28</sup> There are serious obstacles to obtaining official statistics on the racial disparities in public policies in different areas due to the lack of inclusion of appropriate ethnic-racial identification in the public administration and judicial system's records. Considering that Brazil is a federal State, the production of comprehensive and integrated data

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<sup>22</sup> See Werneck, Jurema. "A luta continua: o combate ao racismo no Brasil pós-Durban" ["The struggle continues: the fight against racism in post-Durban Brazil"], 2005, [https://www.socialwatch.org/sites/default/files/swbrasil2005\\_bra.pdf](https://www.socialwatch.org/sites/default/files/swbrasil2005_bra.pdf), p. 64.

<sup>23</sup> Agência Câmara, "Relatório aponta corte em verbas federais para combater o racismo" ["Report points out to cut in federal funds to combat racism"], 20 November 2021, <https://www.camara.leg.br/noticias/709406-relatorio-aponta-corte-em-verbas-federais-para-combate-ao-racismo/>

<sup>24</sup> Institute for Socioeconomic Studies, *Budget allocation reveals widespread dismantling of social policies*, 11 April 2022, <https://www.inesc.org.br/balanco-do-orcamento-2019-2021-revela-desmonte-generalizado-de-politicas-sociais-diz-inesc/>

<sup>25</sup> In a dossier, the Institute for Socioeconomic Studies (INESC) and the Indigenistas Association demonstrate the steps taken by the Bolsonaro Administration to implement an anti-Indigenous policy at the National Indigenous Foundation (Funai). Institute for Socioeconomic Studies, *Funai has been transformed into an anti-Indigenous Foundation*, 14 June 2022, <https://www.inesc.org.br/funai-se-transformou-em-fundacao-anti-indigena-alerta-dossie-sobre-a-atuacao-do-orgao-no-governo-bolsonaro/>

See also G1, "Sérgio Camargo, presidente da Fundação Palmares, chama movimento negro de 'escória maldita' em reunião" [Sérgio Camargo, president of the Palmares Foundation, calls the black movement *escória maldita* during meeting"], 02 June 2020, <https://g1.globo.com/politica/noticia/2020/06/02/sergio-camargo-presidente-da-fundacao-palmares-chama-movimento-negro-de-escoria-maldita-em-reuniao.ghtml>; G1, "'No Brasil, não existe racismo', diz Mourão sobre assassinato de homem negro em supermercado" ["'In Brazil, does not exist racism', says Mourão – Vice-presidente - about the murder of a black man in a supermarket"], 20 November 2020, <https://g1.globo.com/politica/noticia/2020/11/20/mourao-lamenta-assassinato-de-homem-negro-em-mercado-mas-diz-que-no-brasil-nao-existe-racismo.ghtml>

<sup>26</sup> O Globo, "Ataques ao movimento negro, agressão a artistas, retirada de homenagens – as polêmicas de Sérgio Camargo à frente da Fundação Palmares" ["Attacks against the Black movement, aggression against artists, withdrawal of tributes - the controversies of Sergio Camargo as president of the Palmares Cultural Foundation"], 30 August 2021, <https://oglobo.globo.com/cultura/ataques-ao-movimento-negro-agressao-artistas-retirada-de-homenagens-as-polemicas-de-sergio-camargo-frente-da-fundacao-palmares-25176802>

<sup>27</sup> Advances have been made with the inclusion of Afro-descendant self-identification questions in population and housing censuses in the last decades. Household surveys, including data on poverty and employment, and some health surveys have been improved as well. See ECLAC, *Afro-descendants and the matrix of social inequality in Latin America*, 2021, [https://repositorio.cepal.org/bitstream/handle/11362/46871/1/S2000927\\_en.pdf](https://repositorio.cepal.org/bitstream/handle/11362/46871/1/S2000927_en.pdf), pp. 13-15.

<sup>28</sup> The ethnic-racial identification of the cases of persons infected by COVID-19 was determined by a court order. See Agência Brasil, Justiça determina registro obrigatório de raça em casos da Covid-19 ["Court orders for mandatory race registration in cases of COVID-19"], 05 May 2020, <https://agenciabrasil.ebc.com.br/saude/noticia/2020-05/justica-determina-registro-obrigatorio-de-raca-em-casos-da-covid-19>

disaggregated by gender, race, and other dimensions of inequality requires an additional effort, since most public policies in Brazil have a multi-scale implementation process, engaging federal, state, and municipal policies, programmes, and actions. As documented by the National Coordination of Quilombos, the statistical invisibility of the Quilombola population seriously hampered this group in terms of the implementation of public policies.<sup>29</sup>

## QUOTA LAWS TO IMPROVE ACCESS TO HIGHER EDUCATION

In 2022, the quota law in universities completes the 10 years and is scheduled for assessment of the impacts and results achieved by the programmes. This 10-year assessment period has been a matter of concern between higher education professionals and Black movement activists. The main concern is that the 10 years of completion could be instrumentalised by the political opposition to require repeal or substantial amendment of the law, undermining Afro-Brazilians' rights. A Draft Bill to extend the term of validity of the quota law in universities is under consideration by the Chamber of Deputies<sup>30</sup>. Recent research carried out by the Federal Public Defender's Office and the Brazilian Association of Black Researchers points out that, despite the positive results achieved, the quota law has not yet been implemented to achieve its full potential and the mechanisms for admission to universities need to be improved<sup>31</sup>.

## RECOMMENDATIONS

- Restore and allocate sufficient resources, whilst ensuring proper budgetary implementation of programmes and actions aimed at promoting racial and gender equality and combating racism and violence against women and LGBTQIA+ people, as well as ensuring intersectionality and meaningful participation of Afro-descendants in the planning and execution of public policies.
- Revise the inclusion of ethnic and racial data in public administration and judicial system records; design and implement disaggregated data compilation systems capable of providing a comprehensive intersectional view of racial disparities in public policies, law enforcement, and justice system outcomes. Use data to drive and assess responses to systemic racism and collect and make public comprehensive data disaggregated by race or ethnic origin, with strict safeguards and in accordance with international human rights law, aiming at analysing the effect of laws and policies on Black, Indigenous, and Quilombola populations. In doing so, ensure effective and meaningful participation and/or representation of civil society – particularly Black, Indigenous and Quilombola communities, including women and youth, and their organizations.
- Revise the racial discrimination cases in the justice system, in order to ensure that rules for evidence production, investigations, legal procedures, and racial/gender stereotypes do not prevent Afro-Brazilians from having fair judicial treatment when subject to racial discriminations or being targeted by advocacy of hatred.
- Develop mechanisms to monitor Afro-Brazilians' access to justice ensuring that the justice system calls into question racial biases, harmful stereotypes, and other forms of institutional reproduction of racism in compliance with international human rights standards.
- Reject the introduction of any legislative or executive proposition that jeopardises Afro-Brazilians' rights to access education at different levels, especially to prevent setbacks in guaranteeing the right to affirmative action programmes to access higher education.
- Review periodically working patterns of misconduct and racial biases, as well as the racial disparities generated by the justice system, ensuring adequate training to judges, prosecutors, lawyers, and law enforcement officials on international legal instruments related to human rights, especially the Convention on the Elimination of All Forms of Racial Discrimination, and the Recommendations and jurisprudence of this Committee.

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<sup>29</sup> Due to a lack of official data, the national and subnational governments have repeatedly failed to correctly estimate and locate Quilombola communities to guarantee their right to vaccination as a priority group. Quilombola persons were also invisible in the COVID-19 statistics until the Federal Supreme Court ordered the State to identify them in official records. See Conaq, "Vacinômetro Quilombola" ["Quilombola Vaccinometer"], <https://conaq.org.br/vacinometro-quilombola-2a-edicao/>

<sup>30</sup> Brazil, Draft Bill No 3422, 2021, <https://www.camara.leg.br/propostas-legislativas/2301467>

<sup>31</sup> See DPU and ABPN. *Research on the Implementation of Racial Quotas in Federal Universities*. 2022, <https://www.andifes.org.br/wp-content/uploads/2022/08/Confira-a-Pesquisa-sobre-a-Implementacao-da-Politica-de-Cotas-Raciais-nas-Universidades-Federais-na-integra.pdf>



- Public authorities must refrain from using language that stigmatizes, attacks, discredits, discriminates and incite violence against the Black population. The authorities must ensure the safety of the Black population and officials engaging in racist speeches and inciting racial discrimination and violence should be subject to appropriate disciplinary and other sanctions.

## ECONOMIC AND SOCIAL RIGHTS

The Brazilian State's poor performance in the face of the pervasiveness of systemic racism was magnified by the COVID-19 pandemic. As reported by Amnesty International in 2021, a higher prevalence of food insecurity and hunger was experienced in Black female-headed households since pre-pandemic. Black women, who already represented the largest share of the population living in poverty before the health crisis, were also the most affected by the increase in poverty and the decline in income. Black women have also been disproportionately impacted by the pandemic's consequences on unemployment and the increase in informal labour.<sup>32</sup>

The Black population had high occupational exposure to COVID-19 as they are the majority among informal and essential service workers, particularly Black women.<sup>33</sup> Black people have died more than white people as a result of COVID-19. While 55% of infected Black people died from COVID-19, the proportion among whites was 38%.<sup>34</sup> In the city of São Paulo, the mortality rate from COVID-19 among Black people was 172 per 100,000 inhabitants, while for whites it was 115 deaths per 100,000 inhabitants.<sup>35</sup> 67% of more than 190 million people who depend exclusively on Brazil's public health system - the Unified Health System (Sistema Único de Saúde - SUS) are Black.<sup>36</sup>

The country's highest poverty rate since 2012 was recorded in 2021<sup>37</sup>. The contingent of people with household monthly income per person lower than 497 reais has amounted to 62.9 million Brazilians in the last year.<sup>38</sup> The number of people in a situation of hunger rose from 19.1 to 33.1 million between the end of 2020 and the beginning of 2022<sup>39</sup>. In 2021/2022, only 41.3% of households were food secure and 125.2 million Brazilians experienced some level of food insecurity. More than six out of 10 households headed by women live with food insecurity (64.1%) and 65.0% of households headed by Black people live with food insecurity<sup>40</sup>. It is estimated that only half of the 100 million people who previously received the *Bolsa Família* Programme and the Emergency Aid (*Auxílio Emergencial*) continued to have access to *Auxílio Brasil*, due to problems such as outdated income-based eligibility criteria and insufficient resources to meet the demand.<sup>41</sup>

Key government programmes that in recent years were essential to overcoming poverty and food insecurity have been discontinued. The Food Acquisition Programme (*Programa de Aquisição de Alimentos – PAA*) was defunded.<sup>42</sup> The *Bolsa Família* Programme (PBF) was replaced by the *Alimenta Brasil* and *Auxílio Brasil*

<sup>32</sup> Amnesty International, *COVID-19 and human rights in Brazil. Pathways and challenges for a fair recovery*, 2021, <https://anistia.org.br/informe/novo-relatorio-covid-19-e-direitos-humanos-no-brasil-caminhos-e-desafios-para-uma-recuperacao-justa/>

<sup>33</sup> Id. Ibid.

<sup>34</sup> Núcleo de Operações e Inteligência em Saúde (NOIS), "11th Technical Note", <https://www.ctc.puc-rio.br/diferencas-sociais-confirmam-que-pretos-e-pardos-morrem-mais-de-covid-19-do-que-brancos-segundo-nt11-do-nois/>

<sup>35</sup> Polis Institute, "Race and COVID-19 in the city of Sao Paulo", <https://polis.org.br/estudos/raca-e-covid-no-msp/>

<sup>36</sup> Amnesty International, *COVID-19 and human rights in Brazil. Pathways and challenges for a fair recovery*, 2021, <https://anistia.org.br/informe/novo-relatorio-covid-19-e-direitos-humanos-no-brasil-caminhos-e-desafios-para-uma-recuperacao-justa/>

<sup>37</sup> Getulio Vargas Foundation (FGV) Social, *The new poverty map*, 2022, [https://www.cps.fgv.br/cps/bd/docs/Texto-MapaNovaPobreza\\_Marcelo\\_Neri\\_FGV\\_Social.pdf](https://www.cps.fgv.br/cps/bd/docs/Texto-MapaNovaPobreza_Marcelo_Neri_FGV_Social.pdf)

<sup>38</sup> Id. Ibid.

<sup>39</sup> Rede Brasileira de Pesquisa em Soberania e Segurança Alimentar e Nutricional [Brazilian Research Network on Food and Nutrition Sovereignty and Security], *Second National Survey on Food Insecurity in the Context of the COVID-19 Pandemic in Brazil*, 2022, <https://olheparaafome.com.br/wp-content/uploads/2022/09/OLHESumExecutivoINGLES-Diagramacao-v2-R01-02-09-20224212.pdf>

<sup>40</sup> Id. Ibid.

<sup>41</sup> Id. Ibid.

<sup>42</sup> See Uol, "Com escalada de fome no Brasil, governo destrói programa alimentar" ["As hunger escalates in Brazil, government dismantles food programme"], 6 June 2022, <https://noticias.uol.com.br/politica/ultimas-noticias/2022/06/06/com-escalada-de-fome-no-brasil-governo-destroi-programa-alimentar.htm>

programmes. The National School Feeding Programme (*Programa Nacional de Alimentação Escolar – PNAE*) has been suffering from a reduction in resources and poor management.<sup>43</sup>

The impact on specific groups in disadvantaged situations is a matter of great concern. For instance, the government's failure to provide adequate medical care and address the severe malnutrition of Indigenous children, jeopardizes this group when eight out of 10 Yanomami children are chronically malnourished.<sup>44</sup> In 2018, the prevalence of chronic malnutrition among Indigenous children under 5 years old was 28.6%.<sup>45</sup> In 2018, the undernourishment rate among non-Indigenous children under the age of 5 was 6%.<sup>46</sup>

The COVID-19 pandemic has intensified the vulnerability faced by the LGBTQIA+ population. Institutional violence in public services, unemployment and increase in informal work, food insecurity, homelessness, and greater exposure to violence are some of the situations reported<sup>47</sup>.

Articulation of Indigenous Peoples of Brazil<sup>48</sup> and the National Coordination of Quilombos<sup>49</sup> mobilised the Federal Supreme Court to compel the federal government to fulfill its minimum obligations to protect Indigenous people and Quilombolas during the COVID-19 pandemic. In 2020 and 2021, Supreme Court rulings forced the Brazilian State to design and implement plans to combat COVID-19 and its consequences in consultation with representatives from Indigenous peoples and Quilombolas. Up to now, government policies aimed at combating COVID-19 and mitigating its impacts among Indigenous peoples and Quilombolas communities have not been properly implemented. Indigenous and Quilombola movements continue to demand the Supreme Court to compel the government to fulfil its obligations. To date, these movements continue to request the Supreme Court's intervention to guarantee basic rights such as the right to access COVID-19 vaccines<sup>50</sup>, the right to territorial protection<sup>51</sup> against land invaders, and the right to access food<sup>52</sup>.

## RECOMMENDATIONS

- Ensuring that responses and access to remedy to the health impact and socio-economic consequences of the COVID-19 pandemic are compliant with the right to equality and non-discrimination and to adopt affirmative action measures to end racial, gender and LGBTQIA+ discrimination in the enjoyment of economic and social rights.
- Ensure economic recovery measures for Black, Indigenous, and Quilombola communities, especially women, considering cash transfer programmes and support for small businesses.

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<sup>43</sup> Agencia Camara, "Redução de recursos para segurança alimentar de crianças e adolescentes preocupa deputadas" ["Reduction of resources for food security of children and adolescents worries congresswomen"], 25 November 2021, <https://www.camara.leg.br/noticias/831372-reducao-de-recursos-para-seguranca-alimentar-de-criancas-e-adolescentes-preocupa-deputadas/> See also Uol, "Sem reajuste há 5 anos, merenda vira bolacha e suco em cidades pobres" ["Without any readjustment for 5 years, school meals have become just cookies and juice in poor cities"], 11 September 2022, <https://noticias.uol.com.br/colunas/carlos-madeiro/2022/09/11/bolacha-e-suco-sem-reajuste-ha-5-anos-merenda-se-torna-lanche-em-escolas.htm?cmpid=copiaecola>

<sup>44</sup> Agencia Brasil. "Oito em cada 10 crianças yanomami têm desnutrição crônica, diz estudo" ["Eight out of 10 Yanomami children are chronically malnourished, study says"], 29 October 2019, <https://agenciabrasil.ebc.com.br/geral/noticia/2019-10/oito-em-cada-10-criancas-yanomami-tem-desnutricao-cronica-diz-estudo>

<sup>45</sup> Desiderata Institute. *Panorama of Obesity in Children and Young People*. <https://panorama.obesidadeinfantil.org.br/> (accessed on 22 October 2022)

<sup>46</sup> Desiderata Institute. *Panorama of Obesity in Children and Young People*. <https://panorama.obesidadeinfantil.org.br/> (accessed on 22 October 2022)

<sup>47</sup> National Association of Travestis and Transexuals (Antra), *Information Note. Situation of Afro-LGBTI+ people during COVID-19 Health Crisis in Brazil*, 2020, <https://www.ohchr.org/sites/default/files/Documents/Issues/SexualOrientation/IESOGI-COVID-19/CSOs/ANTRA.pdf>

<sup>48</sup> ADPF (Claim of Non-compliance with a Fundamental Precept) constitutional claim. Case No 709. It has required the federal government to take measures to protect indigenous people against COVID-19 and indigenous land against intruders.

<sup>49</sup> ADPF (Claim of Non-compliance with a Fundamental Precept) constitutional claim. Case No 742. It has required the federal government to take concrete steps to protect Quilombola communities against COVID-19 with attention to the needs related to territorial protection and food insecurity.

<sup>50</sup> Articulação dos Povos Indígenas do Brasil [Articulation of Indigenous Peoples of Brazil] - Apib. "Apib recorre ao STF para garantir vacinação de indígenas" ["Apib appeals to the Federal Supreme Court to ensure vaccination of indigenous people"], 29 January 2021, <https://apiboficial.org/2021/01/29/apib-recorre-ao-stf-para-garantir-vacinacao-de-indigenas/>

<sup>51</sup> Portal STF. "Barroso pede informações à União sobre invasões na Terra Indígena Yanomami" ["Supreme Court judge requests information from the Federal Government on invasions of the Yanomami Indigenous Land"], 03 June 2022, <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=488324&ori=1>

<sup>52</sup> Conaq, "ADPF 742: CONAQ consegue na justiça liberação de cestas de alimentos para comunidades quilombolas" ["Conaq achieves Supreme Court ruling to obtain food baskets for Quilombola communities"], 23 June 2022, <http://conaq.org.br/noticias/adpf-742-conaq-consegue-na-justica-liberacao-de-cestas-de-alimentos-para-comunidades-quilombolas/>

- Ensure greater resource allocation for the public health system and social protection mechanisms that promote racial equality and non-discrimination and the right to an adequate standard of living for Afro-descendants, with special focus on women and LGBTQIA+ people.
- Expand, strengthen and ensure the continuity of cash transfer programmes and financial assistance to all those who need them, establishing available means for adequate access to the specific conditions of each population group, with special attention to the situation of trans women and Black, Indigenous, and Quilombola women.
- Ensure the continuity of school meals following the quality standard established by the National School Feeding Programme, especially in historically disadvantaged communities that often face higher levels of food insecurity.

## UNLAWFUL KILLINGS, EXTRAJUDICIAL EXECUTIONS, AND EXCESSIVE USE OF FORCE

### “WAR ON DRUGS”, EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS

The rationale of the “war on drugs” has been used to justify militarised operations, and unnecessary and excessive use of force, including extrajudicial executions,<sup>53</sup> resulting in thousands of victims every year affecting mostly afro-Brazilians living in favelas. Besides unlawful killings,<sup>54</sup> police raids also include a range of other violations of rights including unwarranted and unlawful home invasions,<sup>55</sup> destruction of belongings, sexual violence, physical and psychological torture and other forms of ill-treatment,<sup>56</sup> restrictions on freedom of movement, and suspensions of essential services, such as the closing of schools and health facilities,<sup>57</sup> gravely impacting the economic, social and cultural rights of already marginalised communities.

Due to the excessive and increasing use of lethal violence by security forces, the Office of the Public Defenders in Rio de Janeiro, together with social movements, especially victim’s mothers and family members of State violence and civil society human rights organizations have mobilised the Federal Supreme Court aiming at stopping police raids in Rio de Janeiro’s favelas in the context of the COVID-19 pandemic.<sup>58</sup> This constitutional claim has had some impact, albeit limited. On June 2020, August 2020, and February 2022, Federal Supreme Court rulings have: (a) suspended police raids in Rio de Janeiro’s favelas during the COVID-19 pandemic; (b) compelled the State of Rio de Janeiro to develop a plan aimed at reducing killings by the police<sup>59</sup> and; (c) determined the installation of cameras and GPS equipment in police vehicles and on police uniforms. Federal Supreme Court decision initially contributed to a reduction in killings by police in

<sup>53</sup> Amnesty International, *You killed my son: Homicide by military police in the city of Rio de Janeiro*, 2015, <https://www.amnesty.org/en/documents/amr19/2068/2015/en/>; See also Amnesty International, *Report 2021/22, 2022*, <https://www.amnesty.org/en/latest/research/2022/03/annual-report-202122/>, p. 101.

<sup>54</sup> Designations such as “killing resulting from police intervention /resistance followed by death”, have been repeatedly used to mask unlawful killings.

<sup>55</sup> O tempo, “Moradores relatam morte a fachadas e casas invadidas por PMs em operação no Rio” [“Residents report death by stabbings and houses invaded by Military Police in raid in Rio de Janeiro”], 26 May 2022, <https://www.otempo.com.br/brasil/moradores-relatam-morte-a-fachadas-e-casas-invadidas-por-pms-em-operacao-no-rio-1.2674940>

<sup>56</sup> O dia, “Moradores relatam invasão, roubo e tortura por parte de PMs na Cidade de Deus” [“Residents report invasion, robbery and torture by police officers in Cidade de Deus”], 27 June 2022, <https://odia.ig.com.br/rio-de-janeiro/2022/06/6431242-moradores-relatam-invasao-roubo-e-tortura-por-parte-de-pms-na-cidade-de-deus.html>

<sup>57</sup> Extra, “Operações no Rio deixam 27 escolas fechadas no primeiro dia de ano letivo” [“Police raids in Rio leave 27 schools closed on the first day of the school year”], 07 February 2022, <https://extra.globo.com/casos-de-policia/operacoes-no-rio-deixam-27-escolas-fechadas-no-primeiro-dia-de-ano-letivo-25384413.html>

<sup>58</sup> ADPF (Claim of Non-compliance with a Fundamental Precept) constitutional claim. Case No. 635, also called in Brazil *ADPF das Favelas*.

<sup>59</sup> The plan for reducing police lethality in Rio de Janeiro had already been ordered by the Inter-American Court of Human Rights in the case of human rights violations in Favela Nova Brasília. The state of Rio de Janeiro published the plan on March 22 (Decree No. 47.802/2022), a proposal with many limitations. The plan has been criticised especially for the lack of specific goals and indicators to reduce police lethality and the lack of civil society participation. In May 2022, a Supreme Court ruling determined State’s obligation to ensure effective civil society participation and public hearings. See Uol, “Sem metas, plano do RJ contra letalidade policial não atende decisão do STF” [“Without goals, RJ’s plan against police lethality does not meet Supreme Court decision”], 19 January 2022, <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2022/03/25/letalidade-policial-plano-rj.htm>

Rio de Janeiro.<sup>60</sup> However, the practices of excessive use of force and unlawful killings did not fundamentally change. The state of Rio de Janeiro did not fully comply with the Supreme Court order, including the requirement of prior notification to the Public Prosecutor's Office in case of police operations and the order to carry out police raids only in exceptional cases.<sup>61</sup> The rate of killings perpetrated by law enforcement personnel increased by 185% in January and February 2021, compared to the first four months after the first Supreme Court order in June 2020.<sup>62</sup> Amnesty International, alongside other human rights organizations expressed deep concern about the police raids conducted amid the COVID-19 pandemic, which have not achieved legitimate public security objectives, nor protected the rights to life and health of the residents of favelas and neighbouring areas, further entrenching historical patterns of racial discrimination.<sup>63</sup>

## KILLINGS BY POLICE AND MECHANISMS FOR OVERSIGHT AND ACCOUNTABILITY OF POLICE ACTIVITY

In 2021, 6,145 people were killed by police officers, a slight decrease compared to 2020 when police killed a record number of 6,412 people.<sup>64</sup> 84.1% of victims of killings by police in 2021 were Black.<sup>65</sup> It is estimated that police officers killed at least 787 children in 2020; about 80% of these children were Black and 90% were boys.<sup>66</sup>

Amnesty International has documented multiple cases of extrajudicial executions and unlawful killings in Rio de Janeiro. Ágatha Felix (8 years old) and João Pedro<sup>67</sup> (14 years old), were unlawfully killed in police raids on September 2019 and May 2020, respectively.<sup>68</sup> In May 2022, 24 residents were unlawfully killed as a result of a police operation in Vila Cruzeiro (Complexo da Penha). In July 2022, a police operation resulted in the unlawfully killing of 17 residents in Complexo do Alemão. On May 2021, 28 residents were unlawfully killed during a police operation "Operação Exceptis" in Jacarezinho favela.<sup>69</sup> In June 2021, a police operation in the Lins de Vasconcelos community killed Kathlen Romeu who was four months pregnant. In November 2021, nine unlawful killings were perpetrated by security forces in Complexo do Salgueiro Favela. Residents claim that these were extrajudicial executions carried out as an act of revenge due to the killing of a police officer during a police raid.<sup>70</sup> Investigations into the circumstances of the deaths are still pending. One year after the Jacarezinho massacre (May 2021), the deadliest in the state of Rio de Janeiro, in 24 of the 28 deaths, the investigations initiated by the Public Prosecutor's Office were closed on the grounds of lack of

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<sup>60</sup> 2020 data from the Center for Studies on Security and Citizenship showed that, during the months in which Rio de Janeiro's police complied with the Federal Supreme Court's order and suspended police raids, the killings were reduced by 80%. Cesec, "Interrupção de operações policiais no auge da pandemia mostrou que outra política de segurança é possível" ["Interruption of police operations at the height of the pandemic showed that another security policy is possible"], 22 October 2020, <https://cesecseguranca.com.br/reportagens/interrupcao-de-operacoes-policiais-no-auge-da-pandemia-mostrou-que-outra-politica-de-seguranca-e-possivel/>

<sup>61</sup> Veja, "Mesmo com a suspensão do STF, polícia do Rio faz operação e deixa 25 mortos" ["Even with the suspension of police raids ordered by the Supreme Court, Rio police carried out an operation that killed 25 people"], 6 May 2021, <https://veja.abril.com.br/brasil/mesmo-com-suspensao-do-stf-policia-do-rio-faz-operacao-e-deixa-25-mortos/>

<sup>62</sup> Grupo de Estudos dos Novos Ilegalismos [Study Group on New Illegalisms] - Federal Fluminense University. *Police raids and lethal violence: the impacts of ADPF 634 in the right to live*, 2021 [http://geni.uff.br/wp-content/uploads/sites/357/2021/04/Relatorio-audiencia\\_balanco\\_final\\_22\\_03\\_2021-1.pdf](http://geni.uff.br/wp-content/uploads/sites/357/2021/04/Relatorio-audiencia_balanco_final_22_03_2021-1.pdf)

<sup>63</sup> Amnesty International, "Operações policiais durante a pandemia da Covid-19" ["Police raid during COVID-19 pandemic"], 19 May 2020, <https://anistia.org.br/informe/nota-operacoes-policiais-durante-pandemia-da-covid-19/>

<sup>64</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook, Police lethality drops, but Black mortality increases in 2021*, <https://forumseguranca.org.br/wp-content/uploads/2022/07/05-anuario-2022-letalidade-policial-cai-mas-mortalidade-de-negros-se-acentua-em-2021.pdf>

<sup>65</sup> Id. Ibid.

<sup>66</sup> Correio Braziliense, "Polícia matou 2 crianças e adolescentes por dia no Brasil em 2020" ["Police killed 2 children each day in Brazil in 2020"], 22 October 2021, <https://www.correiobraziliense.com.br/brasil/2021/10/4957276-policia-matou-2-criancas-e-adolescentes-por-dia-no-brasil-em-2020.html>

<sup>67</sup> Amnesty International, "Assassinato de João Pedro Matos faz 1 anos e Anistia Internacional exige respostas" ["Killing of João Pedro Matos completes 1 year, and Amnesty International Brazil claims for answers"], 18 May 2021, <https://anistia.org.br/informe/assassinato-de-joao-pedro-matos-faz-1-ano-e-anistia-internacional-brasil-exige-respostas>

<sup>68</sup> Amnesty International, "Caso Ágatha Félix: Anistia Internacional exige política de segurança pública baseada em inteligência e treinamento" ["Ágatha Félix case: Amnesty International Brazil requires public security policy based on intelligence and training"], 21 September 2020, <https://anistia.org.br/informe/caso-agatha-felix-anistia-internacional-exige-politica-de-seguranca-publica-baseada-em-inteligencia-e-treinamento/>

<sup>69</sup> Amnesty International, "Chacina do Jacarezinho: lamentável e injustificável" ["Jacarezinho "Massacre": outrageous and unjustifiable"], 6 May 2021, <https://anistia.org.br/informe/chacina-do-jacarezinho-lamentavel-e-injustificavel/>

<sup>70</sup> Amnesty International, "Anistia Internacional cobra investigação rigorosa sobre chacina no complexo do Salgueiro" ["Amnesty International Brazil calls upon rigorous investigation on "massacre" in Salgueiro Favela"], 23 November 2021, <https://anistia.org.br/informe/nota-publica-anistia-internacional-brasil-cobra-investigacao-rigorosa-sobre-chacina-no-complexo-do-salgueiro/>

evidence.<sup>71</sup> In Vila Cruzeiro massacre (May 2022), the second deadliest in the state, the Public Prosecutor's investigations are still ongoing, and the Governor of the state claimed the deaths were the result of a legitimate operation, denying the human rights violations and reinforcing harmful stereotypes against favela residents, in its majority Afro-Brazilians, such as the alleged involvement of the victims with organised crime, as well as the deaths were a product of violent confrontation with dangerous criminals.<sup>72</sup>

The Brazilian constitution provides for the structure of law enforcement. State police forces are subordinated to state executive power and have different forms of organization in each state. Police oversight and accountability in Brazil are fragile. Formally, it is carried out by internal and external supervising bodies responsible for investigating violations and irregularities committed by law enforcement personnel, as well as, in some states, the Ombudsperson, which receives, refers, and oversees complaints and claims from the public about police officers' abuses<sup>73</sup>. The Public Prosecutor's Office is the competent independent authority with responsibilities regarding the external control of the police activity, holding the necessary autonomy for supervising and making police abuses accountable. Despite the attempt from the National Council of the Brazilian Public Prosecutor's Office to establish guidelines<sup>74</sup> for the performance of prosecutors regarding the external control of police activity, there is no national monitoring or standardisation for the role of the Public Prosecutor's Office in this matter. There are also no effective mechanisms for civil society participation on oversight of police activity. In states where it is possible to find some level of transparency and ease of accessing statistical data and crime indicators, it is possible to monitor and engage in a more informed public debate on public security policy.

## CYCLE OF IMPUNITY AND ROLE OF THE JUSTICE SYSTEM OPERATORS

In August 2021, the acquittal of 5 police officers charged with the unlawful killings of 13 people in the 1994 massacre in the Nova Brasília favela, Rio de Janeiro, represented an emblematic example of historical impunity.<sup>75</sup> It took 27 years for the accused officers to face trial, which was prompted by a 2017 Inter-American Court of Human Rights ruling condemning the Brazilian State for human rights violations in this case.<sup>76</sup> The case underlines the State's failure to conduct a timely, thorough investigation in line with international standards and to bring to justice those responsible for the crimes.

Amnesty International has argued that the Public Prosecutor's Office – has been tacitly supporting abuses by failing to effectively investigate killings resulting from police intervention. Criminal investigation rarely is carried out and when it does it is often flawed and slow, leading to impunity for police officers involved in unlawful killings. In 2016 Public Prosecutors' Offices in Rio de Janeiro and São Paulo requested Justice to

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<sup>71</sup> Folha de São Paulo, "Investigação de Massacre no Jacarezinho chega quase ao fim com 24 das 28 mortes arquivadas" ["Investigation of Jacarezinho massacre comes to an end with 24 of the 28 deaths filed", 5 May 2022, [https://www1.folha.uol.com.br/cotidiano/2022/05/investigacao-de-massacre-no-jacarezinho-ri-chega-quase-ao-fim-com-24-das-28-mortes-arquivadas.shtml?pwgt=I98ha36wxlwcl8xriom9y7rg0lm4hb1f7fsgaug14hypsea&utm\\_source=whatsapp&utm\\_medium=social&utm\\_campaign=compwagift](https://www1.folha.uol.com.br/cotidiano/2022/05/investigacao-de-massacre-no-jacarezinho-ri-chega-quase-ao-fim-com-24-das-28-mortes-arquivadas.shtml?pwgt=I98ha36wxlwcl8xriom9y7rg0lm4hb1f7fsgaug14hypsea&utm_source=whatsapp&utm_medium=social&utm_campaign=compwagift)]

<sup>72</sup> Jota, "Não houve chacina alguma, diz governador" ["There was no massacre, says the Governor of Rio de Janeiro"], 1 June 2022, <https://www.jota.info/stf/do-supremo/nao-houve-chacina-alguma-diz-governador-do-ri-sobre-operacao-com-ao-menos-23-mortos-01062022>

<sup>73</sup> The first steps towards the creation of these institutions were made by the state of São Paulo in 1995.

<sup>74</sup> Brazil, Conselho Nacional do Ministério Público [National Council of the Brazilian Public Prosecutor's Office] – CNMP, Resolution No 129, 2015, establishes minimum rules for the Public Prosecutor's Office performance in the external control of the investigation of deaths resulting from police intervention, <https://www.cnmp.mp.br/portal/atos-e-normas/norma/3514/&highlight=WyJwb2xpY2lhbCIsInBvbGliWFsJyJd>; CNMP, Resolution No 20, 2007, establishes rules for the external control of police activity, <https://www.cnmp.mp.br/portal/atos-e-normas/norma/479/&highlight=WyJwb2xpY2lhbCIsInBvbGliWFsJyJd>

<sup>75</sup> Amnesty International, "Chacina de Nova Brasília – Impunidade Crônica perpetua ciclo de violências e violações de direitos humanos" ["Nova Brasília massacre – chronic impunity perpetuates the cycle of violence and human rights violations"], 21 August 2021, <https://anistia.org.br/informe/chacina-de-nova-brasil-impunidade-chronica-perpetua-ciclo-de-violencias-e-violacoes-de-direitos-humanos-afirma-anistia-internacional-brasil/>

<sup>76</sup> I/A Court H.R., Case of Favela Nova Brasília v. Brazil. Preliminary Objections, Merits, Reparations and Costs. Judgment of February 16, 2017. Series C No. 333, [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_333\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_333_ing.pdf). The I/A Court H.R. found the State of Brazil responsible for the violation of the right to the judicial guarantees of the independence and impartiality of the investigation, due diligence, and a reasonable time established in Article 8(1); the right to judicial protection established in Article 25 of the American Convention on Human Rights, in relation to Articles 1(1) and 2, of the rights to judicial protection and judicial guarantees established in Articles 25 and 8(1) and the right to personal integrity established in Article 5(1) all of the American Convention on Human Rights.

file nine out of ten cases of deaths caused by police in the cities of Rio de Janeiro and São Paulo.<sup>77 78</sup> The lack of proper investigations and punishment of those responsible for killings resulting from police intervention sends out a message that those deaths are permitted and tolerated by the authorities. The high level of impunity feeds the spiral of violence. Furthermore, the absence of effective arrangements to protect witnesses, victims, relatives, and human rights defenders who denounce police violence impairs investigations and results in more violence.

## HOMICIDES OF AFRO-DESCENDANTS

Afro-Descendants remain the main victims of intentional violent deaths (77.6% of victims of murder).<sup>79</sup> This represents a failure on the part of the State to adequately regulate the acquisition, possession and use of firearms and adopt effective measures to reduce homicides – particularly of young Black men and Black women. In the first two months of 2022, three Black men were unlawfully killed by private actors in the state of Rio de Janeiro: Moïse Kabagambe (24 years old, a Congolese refugee),<sup>80</sup> Durval Teófilo Filho (38 years old), and Hiago Macedo (22 years old). Executive decrees and Draft Bills loosening regulations around the acquisition, possession, and transport of firearms are matters of deep concern.<sup>81</sup> According to the *Instituto Sou da Paz*, after the loosening of regulations around the acquisition and possession of firearms in the country, in July 2022, there were 605,300 people with access to firearms in the country.<sup>82</sup> Proliferation of firearms and lack of effective violence prevention measures put those people already disproportionately affected by firearms violence, particularly Black women and young Black men, at further risk. The National Plan to Combat Youth Homicide, provided for in Law No 13,675/18,<sup>83</sup> has never been implemented.<sup>84</sup>

## RECOMMENDATIONS

- Publicly condemn, at the highest level of government, unlawful killings and other human rights violations in the context of police operations and send public messages that racism in police operations including unnecessary and excessive use of force will not be tolerated.
- Implement a plan, in effective consultation with civil society especially Afro-Brazilians groups and in line with international law and standards on the use of force, with concrete goals, milestones, to reduce killings by police, gun violence, and extrajudicial executions in the country, taking into consideration the disproportional impact on Afro-Brazilians and regional disparities and differences between states.

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<sup>77</sup> Uol, “MP pede arquivamento de 90% de mortes cometidas por policiais em SP e Rio” [“Public Prosecutor’s Office requires filing of 90% of deaths committed by police officers in São Paulo and Rio de Janeiro”], 12 November 2021, <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2021/11/12/denuncias-e-arquivamentos-mortes-policiais-rj-sp.htm?cmpid=copiaecola>

<sup>78</sup> Amnesty International research has identified various factors that contribute to unlawful killings by police remaining uninvestigated and unpunished. Those factors include the different treatment given by the investigators and public prosecutors to killings resulting from police intervention compared with the treatment given to homicides in general. Investigations of killings resulting from police intervention are marked by gaps in evidence gathering, frequently impaired by alteration of crime scenes by law enforcement officers, including the removal of bodies and the planting of false evidence (such as weapons). Criminal judges overvalue police officers’ testimonies and the fact that many times investigations are conducted by the same law enforcement often involved in the facts. The Public Prosecutor’s Office has not been fully complying with its role of exercising external control of police activity and has not taken action to guarantee effective investigation of killings resulting from police intervention. See Amnesty International, *You killed my son: Homicide by military police in the city of Rio de Janeiro*, 2015, <https://www.amnesty.org/en/documents/amr19/2068/2015/en/>

<sup>79</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook, The fragile reduction in violent deaths, 2022*, <https://forumseguranca.org.br/wp-content/uploads/2022/07/01-anuario-2022-a-fragil-reducao-das-mortes-violentas.pdf>

<sup>80</sup> Amnesty International, “A morte de Moïse Kabangabe é Inaceitável” [The killing of Moïse Kabangabe is unacceptable], 03 February 2022, <https://anistia.org.br/informe/a-morte-de-moise-kabangabe-e-inaceitavel-afirma-a-anistia-internacional-brasil/> See also: Amnesty International, Brazil: Human Rights under assault. Submission to the 41<sup>st</sup> session of the UPR working group 7-18 November, 2022, <https://www.amnesty.org/en/wp-content/uploads/2022/04/AMR1954322022ENGLISH.pdf>

<sup>81</sup> Brazil, Draft Bill No. 3,723, 2019, <https://www25.senado.leg.br/web/atividade/materias/-/materia/140042>; Draft Bill No. 6,438, 2019, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2233986>

<sup>82</sup> O Globo, “Três anos após flexibilização, Brasil chega a 46 milhões de permissões para compra de armas por civis” [Three years after easing, Brazil reaches 46 million permits for the purchase of weapons by civilians], 17 July 2022, <https://soudapaz.org/noticias/o-globo-tres-anos-apos-flexibilizacao-brasil-chega-a-46-milhoes-de-permissoes-para-compra-de-armas-por-civis/>

<sup>83</sup> Brazil, Law No 13,672, 2018, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/lei/L13675.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/L13675.htm)

<sup>84</sup> Agência Câmara, “Relatório aponta corte em verbas federais para combater o racismo” [“Report points out to cut in federal funds to combat racism”], 20 November 2021, <https://www.camara.leg.br/noticias/709406-relatorio-aponta-corte-em-verbas-federais-para-combate-ao-racismo/>

- Ensure that police external accountability and oversight mechanisms are truly independent, including institutional legitimacy, structure and powers to access information, and proactively review and propose changes to policies and practices of law enforcement. This needs to ensure the eradication of racial biases by police officers.
- Set out clearly in laws and regulations the responsibility of commanding officers and other superiors for unlawful conduct by police and explicitly prohibit racial discrimination.
- Ensure that all killings by the police are investigated in accordance with the Minnesota Protocol, including investigation on the racist motive; investigations are prompt, effective, thorough, and transparent; are carried out by properly resourced and trained officials; and enable Afro-descendants victims' families to participate. Set up a well-resourced task force in the Public Prosecutor's Office focused on Afro-descendants killings resulting from police intervention, in order to thoroughly and promptly complete ongoing investigations and bring cases to justice.
- Gather and make public information and statistical data about killings resulting from police intervention to be standardised at the national level and for all states to provide timely, accurate, periodic information about the number of people killed and injured in police operations disaggregated by gender, race and other relevant social markers.
- Entirely review the heavily militarised operational approach by the security forces in the highly densely populated areas, towards a law enforcement approach that seeks to avoid the need to resort to the use of force, in particular lethal force, and establishes the protection of the people living in the area and avoidance of loss of life as the priority. Stop using an enemy approach and terminology as reflected by the "war on drugs" agenda that shapes how security forces conduct their operations in violation of international human rights law and standards.
- Offer protection and psychological support to the victims and families of victims of police violence, especially the movements of mothers and family members of victims of State violence, and guarantee the right to fair reparation, which includes adequate compensation and commitments of non-repetition.
- Urgently implement a national programme aimed at reducing homicide rates, which includes national and state targets and metrics to reduce the number of violent deaths and deaths resulting from police intervention, including specific measures to address the disproportionate impact on young Black victims of police violence.

## CRIMINAL JUSTICE

Brazil had 384.7 inmates per 100,000 inhabitants and a shortfall of 180,696 prison places in 2021.<sup>85</sup> There is an increase in the incarceration rate per 100 thousand inhabitants and a slight drop in the rate of prison overcrowding, from 2020 to 2021. The Brazilian Criminal Justice system continues to make use of indefinitely extending pretrial detention. In 2021, the number of pretrial detainees corresponded to 28.5% of the total prison population (233,827 persons in pretrial detention)<sup>86</sup>. Brazil's population is 58% Afro-Brazilians.<sup>87</sup> In 2021, 67.5% of the inmates identified themselves as Black and 46.3% were between 18 and 29 years old.<sup>88</sup> Between 2017 and 2019, at least 259 inmates were killed in prison riots, with more than 100 in 2019 alone.<sup>89</sup> Prison conditions remain appalling. Slight progress was achieved with the regulations of the National Council of Justice (CNJ) aimed at reassuring minimal human rights standards for law

<sup>85</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook*, <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=5>

<sup>86</sup> Id. Ibid.

<sup>87</sup> According to IBGE's (Brazilian Institute of Geography and Statistics), national research of domiciles, in 2021, 47% of the Brazilians self-declare as "pardos" or of mixed race and 9.1% of Brazilians self-declare as Black in 2021. IBGE, "Pesquisa Nacional por Amostra de Domicílios" ["National Research of domiciles"], 2022, <https://static.poder360.com.br/2022/07/populacao-ibge-2021-22jul2022.pdf>

<sup>88</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook*, <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=5>

<sup>89</sup> Correio Braziliense, "Desde 2017, 259 presos foram mortos em rebeliões e conflitos no país" ["Since 2017, 259 prisoners have been killed in riots and conflicts across the country"], 30 July 2019, <https://www.correio braziliense.com.br/app/noticia/brasil/2019/07/30/interna-brasil.774493/desde-2017-259-presos-foram-mortos-em-rebelioes-e-conflitos-no-pais.shtml>

enforcement,<sup>90</sup> but their implementation requires close monitoring to ensure enduring improvements in practice.

In a country such as Brazil, where racism is structural and systemic, racial profiling is also present in the criminal justice system<sup>91</sup>. Civil society organizations and Public Defenders' Offices have drawn attention to the biased and unlawful photographic recognition practice that has been applied in police stations. Between 2012 and 2020, 90 wrongful arrests were reported to be based on photographic recognition. In Rio de Janeiro, in 58 cases in which there was an error in photographic recognition, 80% of the suspects were Black.<sup>92</sup>

Brazil has succeeded in expanding the application of custody hearings at the national level.<sup>93</sup> Custody hearings are now heard in state and federal courts<sup>94</sup>. However, torture and other forms of ill-treatment remain widespread, with the tacit support of the criminal justice system which has failed to ensure effective investigations and hold perpetrators accountable<sup>95</sup>. Underreporting of incidents and a lack of investigative procedures are also part of the problem.<sup>96</sup> Cases of torture or other ill-treatment registered in custody hearings are lower than those reported by civil society<sup>97</sup>. From 2015 to 2021, less than 5% of the cases of torture or other ill-treatment registered during custody hearings were investigated.<sup>98</sup> Despite the efforts to implement national and subnational preventive mechanisms against torture in the country, Presidential Decree No. 9,831 issued in 2019 promoted a serious dismantling of the National Preventive Mechanism violating the CAT-OP.<sup>99</sup> The validity of this Decree was suspended in April 2022 by the Supreme Court.<sup>100</sup>

Official recommendations on the treatment of LGBTQIA+ people in prisons are widely ignored.<sup>101</sup> Episodes of torture and other forms of ill-treatment were reported.<sup>102</sup>

## RECOMMENDATIONS

- Take immediate steps to tackle racism in the criminal justice system, ensuring adequate training for criminal justice officials, monitoring and periodic review of wrongdoings, and holding accountable those responsible for violations of human rights.
- Strengthen national preventive mechanisms against torture and other ill-treatment, through proper allocation of personnel and resources and by ensuring their independence.

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<sup>90</sup> Brazil, Conselho Nacional de Justiça [National Council of Justice] - CNJ, Resolution No 405, 2021, establishes procedures for the treatment of migrants in prisons, <https://atos.cnj.ius.br/atos/detalhar/4030>; CNJ, Resolution No 252, 2018, establishes principles and guidelines for pregnancy and maternity in prison, <https://atos.cnj.ius.br/atos/detalhar/2667>; CNJ, Resolution No 348, 2020, establishes guidelines and procedures for the treatment of the LGBTQ+ population in prisons, <https://atos.cnj.ius.br/atos/detalhar/3519>; CNJ, Recommendation No 62, aimed at guiding the adoption of measures for containing the spread of COVID-19 in prison, <https://atos.cnj.ius.br/atos/detalhar/3246>

<sup>91</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook*, <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=5>

<sup>92</sup> Conselho Nacional de Defensores Públicos Gerais [National Council of Public Defenders-General], "Relatórios indicam prisões injustas após reconhecimento fotográfico" ["Reports show wrongful arrests after photographic recognition"], 19 April 2021, <http://condege.org.br/2021/04/19/relatorios-indicam-prisoas-injustas-apos-reconhecimento-fotografico/>

<sup>93</sup> Brazil, CNJ Resolution No 213, 2015, determines how custody hearings should be carried out in Brazil, <https://atos.cnj.ius.br/atos/detalhar/2234>. See also UNDOC, Office of partnership with Brazil, *After five years with custody hearings there was a reduction of 10% of provisory detainees, 2021* <https://www.unodc.org/lpo-brazil/pt/frontpage/2021/02/audiencia-de-custodia-completa-seis-anos-com-reducao-de-10-de-presos-provisorios.html>

<sup>94</sup> National Council of Justice, "Subsídios à Missão Subcomitê da Nações Unidas para a prevenção da tortura ao Brasil" [Information Note to UN

Subcommittee on prevention of torture visit to Brazil], February 2022, <https://www.cnj.ius.br/wp-content/uploads/2022/01/informe-spt-fevereiro-22-10h-impressao.pdf>

<sup>95</sup> Id. Ibid.

<sup>96</sup> Id. Ibid.

<sup>97</sup> Id. Ibid.

<sup>98</sup> National Council of Justice, "Relatório – Audiências de custódia – 6 anos" ["Report – Custody hearings – 6 years"], 2021, <https://www.cnj.ius.br/wp-content/uploads/2021/09/relatorio-6-anos-audiencia-custodia.pdf>.

<sup>99</sup> Brazil, Presidential Decree No 9,831, 2019, made the mechanism's operational capacity unfeasible, framing the experts' work as a relevant unpaid public service, [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D9831.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9831.htm). In a report published in 2020, the National Mechanism for preventing and combating torture has indicated a lack of support, interference from the federal government, a decrease in the number of public civil servants, and a shortage of experts. Mecanismo Nacional de Prevenção e Combate à Tortura [National Mechanism for Preventing and Combating Torture], Biannual Report 2018/2019, <https://mnpctbrasil.files.wordpress.com/2021/02/relatorio-bianual-2018-2019-mnpct.pdf>

<sup>100</sup> UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, "UN torture prevention body applauds Brazil Supreme Court's decision safeguarding national preventive mechanism", 01 April 2022, <https://www.ohchr.org/en/press-releases/2022/04/un-torture-prevention-body-applauds-brazil-supreme-courts-decision>

<sup>101</sup> Ministry of Human Rights, *LGBTI Persons in Prisons Report, 2020*, <https://www.gov.br/mdh/pt-br/assuntos/noticias/2020-2/fevereiro/TratamentopenaldepessoasLGBT.pdf>

<sup>102</sup> Id. Ibid.



- Follow up and monitor concrete outcomes of the resolutions and recommendations from the National Council of Justice that have been established to safeguard human rights standards in criminal judicial policy and practice, ensuring these are effective in identifying and correcting racial bias in the criminal justice system.
- Ensure that there is a presumption against pre-trial detention, that it is only used based on an individualised determination that is reasonable, proportionate and strictly necessary, and that those in pre-trial detention are entitled to trial within a reasonable time or to release. Criminal justice authorities must review patterns of misconduct and racial bias in pre-trial detention.

## CIVIC SPACE

### RIGHT TO PROTEST, EXCESSIVE USE OF FORCE, AND VIOLATIONS OF HUMAN RIGHTS

In 2020, according to media reports, more than 100 persons were arbitrarily detained in Belém, state of Pará, during a “Black Lives Matter” protest against police violence.<sup>103</sup> Also in 2020, Amnesty International denounced the excessive use of force by the Military Police of the State of Ceará against family members of persons deprived of their liberty and human rights organizations peacefully protesting<sup>104</sup>. In June 2021, according to media reports, Daniel Campelo<sup>105</sup> and Jonas Correia<sup>106</sup> were hit by rubber bullets during a peaceful anti-government demonstration in Recife, in the state of Pernambuco; each lost vision in one eye.

### POLICING AND HARASSMENT OF HUMAN RIGHTS DEFENDERS

In 2017, complaints emerged about the use of the Brazilian Intelligence Agency (Abin) to investigate Indigenous leaders and non-governmental organizations engaged in criticism against development projects in the Amazon, such as the Belo Monte and Tapajós dams, during the Dilma Rousseff administration. In that year, information from Abin monitoring reports on the activities of Indigenous leaders and human rights organizations was introduced into the final report of the Parliamentary Inquiry Commission on the National Indigenous Foundation (Funai).<sup>107</sup> In 2020, Amnesty International called attention to the monitoring and surveillance practices carried out by the government during COP25 in regard to social movements and non-governmental organizations, and the violation of human rights arising therefrom.<sup>108</sup>

The Articulation of Indigenous Peoples of Brazil has denounced the techniques of persecution and criminalisation used to silence Indigenous leaders, including arrest, coercive warrant, home invasion,

<sup>103</sup> Amazonia Real, “Ato Vidas Negras Importam é marcado por violações a jovens da periferia de Belém” [“Black Lives Matter” protest is marked by violations of the rights of young people from the outskirts of Belem], 07 June 2020, <https://amazoniareal.com.br/ato-vidas-negras-importam-e-marcado-por-violacoes-a-jovens-da-periferia-de-belem/>

<sup>104</sup> Amnesty International, “Carta aberta ao Governador Camilo Santa pelo direito ao protesto pacífico” [“Open letter to Governor Camilo Santa for the right to peaceful protest”], 21 November 2020, <https://anistia.org.br/informe/carta-aberta-ao-governador-camilo-santana-do-ceara-pelo-direito-ao-protesto-pacifico/>

<sup>105</sup> G1, “Homem que perdeu olho após ação da PM em protesto no Recife deixa hospital; a segunda vítima permanece hospitalizada” [“Man, who lost an eye after Military Police action in protest in Recife, leaves hospital; the second victim remains hospitalised”], 02 June 2021, <https://g1.globo.com/pe/paranambuco/noticia/2021/06/02/homem-que-perdeu-olho-apos-acao-da-pm-em-protesto-no-recife-deixa-hospital-globo-ocular-foi-retirado-em-cirurgia.ghtml>

<sup>106</sup> G1, “Além de fazer o que fizeram, não socorreram, diz mãe do homem que perdeu visão atingido por bala de borracha no Recife” [“In addition to doing what they did, they didn’t help”, says the mother of the man who lost sight of an eye hit by a rubber bullet from the Military Police”], 01 June 2021, <https://g1.globo.com/pe/paranambuco/noticia/2021/06/01/alem-de-fazer-o-que-fizeram-nao-socorreram-diz-mae-de-homem-que-perdeu-visao-de-olho-atingido-por-bala-de-borracha-da-pm-no-recife.ghtml>

<sup>107</sup> Gazeta Digital, “Leitão usou dados da Abin para fundamentar relatório da CPI da Funai” [“Leitão used data from Abin to support the Parliamentary Inquiry Commission report on Funai”], 10 May 2017, <https://www.gazetadigital.com.br/editorias/politica-de-mt/leitao-usou-dados-da-abin-para-fundamentar-relatorio-da-cpi-da-funai-e-do-incra/509891>

<sup>108</sup> Amnesty International, “Governo brasileiro ao monitorar e vigiar ONGs e movimentos sociais comete graves violações de direitos humanos, alerta Anistia Internacional” [“Brazilian government, by monitoring and surveilling NGOs and social movements, commits serious violations of human rights, Amnesty International warns”], 17 October, 2020, <https://anistia.org.br/informe/governo-brasileiro-ao-monitorar-e-vigiar-ongs-e-movimentos-sociais-comete-graves-violacoes-de-direitos-humanos-alerta-anistia-internacional/>

Amnesty International, “Anistia Internacional exige o fim de investigações sigilosas contra críticos do governo” [“Amnesty International Brazil calls for an end to confidential investigations against critics of the federal government”], 27 July 2020, <https://anistia.org.br/informe/anistia-internacional-exige-o-fim-de-investigacoes-sigilosas-contra-criticos-do-governo-federal/>

stalking, threats through social networks, exposure of family members, police, and judicial harassment, political persecution, among others.<sup>109</sup> The harassment against Indigenous leaders Sonia Guajajara<sup>110</sup>, Txai Suruí<sup>111</sup>, and Alessandra Mundurucu<sup>112</sup> is emblematic in this regard.<sup>113</sup>

## POLITICAL VIOLENCE

Black and trans women elected in the last elections have disproportionately suffered politically motivated attacks. Constant intimidation and repeated attacks have serious consequences for the exercise of their human rights. The attacks, threats, and cyber-harassment suffered by federal deputy Talíria Petrone<sup>114</sup>, councilor Benny Brioli<sup>115</sup>, federal deputy Vivi Reis<sup>116</sup>, councilor Ana Lúcia Martins<sup>117</sup>, and councilor Carolina Dartora<sup>118</sup> are just a few examples of Black women who have suffered under a constant context of political violence in recent years.

The killing in 2018 of Marielle Franco and her driver, Anderson Gomes, highlights the obstacles faced in accessing justice and reparations. Two men were charged with carrying out the killings. However, four years after the attack, investigations have yet to establish who ordered the killings.

## RECOMMENDATIONS

- Take all necessary measures to prevent the use of excessive force and other human rights violations by law enforcement officials during demonstrations, and protect the right to peacefully protest, ensuring Afro-descendants and Black movements are not specifically targeted in wrongful arrests and police violence against demonstrators.
- Ensure that any use of force, including the use of less lethal weapons, complies with the fundamental principles of legality, necessity, proportionality and precaution, reviewing patterns of misconduct and racial biases. Less lethal weapons must not be used in situations of crowd control that can be addressed through less harmful means, especially in situations involving the exercise of the right to peaceful assembly.
- Refrain from using criminal law and administrative procedures against social activists and human rights defenders as a way of criminalizing their work, especially against Indigenous peoples.
- Abstain from the unlawful use of the Intelligence Agency and justice system to intimidate, harass, and discredit human rights defenders, particularly those working on issues related to anti-racism,

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<sup>109</sup> Indigenous Peoples Rights International, *An anatomy of practices for silencing indigenous leaders*, 2021, <https://apiiboficial.org/files/2021/05/UMA-ANATOMIA-DAS-PRA%CC%81TICAS-DE-SILENCIAMENTO-INDI%CC%81GENA-1.pdf>

<sup>110</sup> G1, "PF intima líder indígena por documentário que critica a ação do governo na pandemia" ["Federal Police subpoena indigenous leader to clarify documentary that criticises government's response to the pandemic"], 30 April 2021, <https://g1.globo.com/politica/noticia/2021/04/30/pf-intima-lider-indigena-por-documentario-que-critica-acao-do-governo-na-pandemia.ghtml>

<sup>111</sup> Perild, "Deaths, threats and invasions: how does the Indigenous woman who spoke at COP26 live?", 2 November 2021, <https://www.perild.com/2021/11/02/deaths-threats-and-invasions-how-does-the-indigenous-woman-who-spoke-at-cop26-live/>

<sup>112</sup> Amazon Watch, "Brazilian Indigenous Leader Faces Renewed Attack Upon Returning from the COP26 Summit", 16 November 2021, <https://amazonwatch.org/news/2021/11/16-brazilian-indigenous-leader-faces-renewed-attack-upon-returning-from-the-cop26-summit>

<sup>113</sup> Amnesty International, "A Anistia Internacional manifesta preocupação com a escalada da violência e perseguição contra os povos indígenas e suas lideranças no país" ["Amnesty International Brazil expresses concern about the escalation of violence and persecution against Indigenous peoples and their leaders in Brazil"], <https://anistia.org.br/informe/a-anistia-internacional-brasil-manifesta-preocupacao-com-a-escalada-da-violencia-e-da-perseguiacao-contra-os-povos-indigenas-e-suas-liderancas-no-pais/>

<sup>114</sup> The Guardian, "Brazil: congresswoman and friend of slain politician Marielle Franco flees following death threats", 13 November 2020, <https://www.theguardian.com/world/2020/nov/13/congresswoman-taliria-petrone-flees-brazil-following-alleged-plot-kill-marielle-franco>

<sup>115</sup> IACHR, "IACHR grants precautionary measures to Benny Briolly Rosa da Silva Santos, Afro-descendant transvestite councilor in Brazil", 13 July 2022, <https://www.oas.org/pt/CIDH/jsForm/?File=/pt/cidh/prensa/notas/2022/159.asp>

<sup>116</sup> Article 19, "Nota de solidariedade à Deputada Vive Reis" ["Note of solidarity to Federal Deputy Vivi Reis"], 27 September 2021, <https://artigo19.org/2021/09/27/nota-de-solidariedade-a-deputada-federal-vivi-reis/>

<sup>117</sup> CDHM, "Presidência da CDHM quer rigor na investigação sobre ameaças a vereadora eleita em SC" ["The president of the Human Rights and Minorities Commission wants a rigorous investigation into threats against elected councilwoman in the state of Santa Catarina"], 20 November 2020, <https://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes/cdhm/noticias/presidencia-da-cdhm-quer-rigor-na-investigacao-sobre-ameacas-a-vereadora-eleita-em-santa-catarina>

<sup>118</sup> Uol, "Primeira vereadora negra eleita de Curitiba sofre ameaças: 'vou te matar'" ["First Black councilwoman elected in Curitiba receives threats: 'I will kill you'"], 12 June 2020, <https://noticias.uol.com.br/politica/ultimas-noticias/2020/12/06/ameaca-morte-carol-dartora-curitiba.htm>

environmental protection and access to land, and issue directives or guidelines that make it clear to criminal investigating authorities who are human rights defenders and what their work is.

- Ensure prompt, thorough, impartial, independent, transparent, and effective investigations into all cases of political violence, ensuring that the perpetrators of the violence are brought to justice in fair trials and guaranteeing access to justice to the victims and their families. The investigation needs to address the racist, sexist and/or transphobic motives of the cases of political violence.
- Ensure that a comprehensive gender, racial, and ethnic perspective regarding the protection of the victims of political violence is incorporated into relevant legislation, directives, and guidelines for security forces, judges, public defenders, and prosecutors.

## LAND DISPUTES, INDIGENOUS PEOPLES AND QUILOMBOLA COMMUNITIES

### LAND DISPUTES AND VIOLENCE AGAINST LAND AND ENVIRONMENTAL DEFENDERS

In 2021 alone 35 killings were registered as a result of land disputes in Brazil, 110 people were arrested and 2,143 rural families were evicted. 52% of the land disputes were concentrated in the Amazon region<sup>119</sup>. The number of cases of Indigenous lands affected by illegal activities of miners, loggers, hunters, fishermen, and land grabbers was highest in 2021. There were 305 cases of possessory invasions, illegal exploitation of resources, and damage to property in 2021, affecting at least 226 Indigenous lands in 22 Brazilian states<sup>120</sup>. Also, there were 176 homicides of Indigenous people recorded<sup>121</sup>.

As violence against land and environmental defenders worsens, Brazil has been failing to implement an adequate public policy to protect human rights defenders. The Brazilian human rights defenders' programme: (a) has not introduced any mechanisms for the meaningful participation of civil society; (b) has not yet managed to minimally develop a perspective of holistic protection considering the dimensions of gender and race and the needs of groups and collectives; and (c) has failed to ensure the implementation of state-level protection programmes.

### TERRITORIAL RIGHTS

At the pace of the State action regarding Quilombolas land titlings, it would take a thousand years to complete the regularisation of all territories. The current federal administration maintains a poor performance regarding Quilombola land titling processes<sup>122</sup>. In April 2021, the Bolsonaro administration had titled only 3 Quilombolas lands<sup>123</sup>. Since 2016, no demarcation of Indigenous lands has been implemented and the processes initiated have been totally stalled.<sup>124</sup> In the last 3 years, 45% of the budget allocated to protect and

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<sup>119</sup> Pastoral Land Commission, *Annual Report Land Disputes, 2022*, [https://www.cptnacional.org.br/downloads?task=download\\_send&id=14267&catid=90&m=0](https://www.cptnacional.org.br/downloads?task=download_send&id=14267&catid=90&m=0)

<sup>120</sup> Indigenous Missionary Council (Cimi), *Violence against Indigenous People Annual Report, 2022*, <https://cimi.org.br/2022/08/cimi-violence-against-indigenous-peoples-report-2021/>

<sup>121</sup> Id. Ibid.

<sup>122</sup> Conaq and Terra de Direitos, "No atual ritmo, o Brasil levará mil anos para titular todas as comunidades quilombolas" ["At the current pace, it will take Brazil a thousand years to title all quilombola lands"], 19 February 2019, <https://terradedireitos.org.br/noticias/noticias/no-atual-ritmo-brasil-levara-mil-anos-para-titular-todas-as-comunidades-quilombolas/23023>

<sup>123</sup> Folha de São Paulo, "Governo Bolsonaro titulou só três quilombos mesmo sob pressão da justiça" ["Bolsonaro's government titled only three quilombos, even under pressure from courts"], 23 August 2021, <https://www1.folha.uol.com.br/cotidiano/2021/08/governo-bolsonaro-titulou-so-tres-quilombos-mesmo-sob-pressao-da-justica.shtml>; Brazilian Association of Investigative Journalism and NGO Brazil Transparency, *Right to Quilombola land at risk – Territory recognition has a historic low in the Bolsonaro government*, 2021, [https://www.achadosepedidos.org.br/uploads/publicacoes/Terra\\_Quilombola.pdf](https://www.achadosepedidos.org.br/uploads/publicacoes/Terra_Quilombola.pdf)

<sup>124</sup> Indigenous Missionary Council (Cimi), *Violence against Indigenous People Annual Report, 2022*, <https://cimi.org.br/2022/08/cimi-violence-against-indigenous-peoples-report-2021/>

demarcate Indigenous lands was spent on compensation and land purchase – a measure that benefits non-Indigenous occupants.<sup>125</sup>

Traditional communities need to be free of embarrassment, free from the fear of persecution, free to gather and organize themselves in order to build up autonomous decision-making processes and have access to full and detailed information on proposed projects. In 2020, the Federal Public Prosecutor's Office accused the federal government of coercing Mundurucu Indigenous people into the environmental licensing process for the Ferrogrão railroad, an important development project currently underway in the Amazon Region. The federal government chose an Indigenous person to represent all affected peoples in the negotiations regarding the project, without consulting the communities.<sup>126</sup>

There are several examples of policies, programmes, and promotion of private initiatives undertaken in disregard of ILO Convention 169 and undermining the right to free, prior, and informed consent. Since the first day of the current government (2019), significant changes have been introduced in the federal administration without consulting Indigenous peoples, Quilombolas, and other traditional peoples. These changes restricted the rights of traditional peoples, changed regulations, procedures, and authorities responsible for the implementation of Indigenous and Quilombola rights. Without any consultation with the Quilombola communities, in April 2022, the Palmares Cultural Foundation approved a new regulation changing the procedures to grant Quilombola self-declaration certificates to these communities.<sup>127</sup> In October 2022, Decree No. 11,226/2022 was approved without consulting Indigenous peoples, which brings about changes in the functioning of the National Indigenous Foundation (Funai).<sup>128</sup>

There are also numerous examples of development projects that have been carried out in the territories violating free, prior, and informed consent.<sup>129</sup>

Some Bills currently under discussion are a matter of concern as they would increase deforestation and other predatory actions on traditional peoples' lands.<sup>130</sup>

## RECOMMENDATIONS

- Implement a plan, in effective consultation with Indigenous and Quilombola movements, with concrete goals, milestones, and allocation of resources to speed up and complete Indigenous and Quilombola peoples' land demarcation/titling processes.
- Publicly recognise the work of land and environmental human rights defenders, especially Indigenous people and Quilombola communities, as legitimate at the highest levels of national and subnational authorities.
- Incorporate into the plans, programmes, and policies to protect human rights defenders a differentiated approach that considers the individual and collective protection needs of Quilombola communities and Indigenous peoples.

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<sup>125</sup> Institute for Socioeconomic Studies, *Budget allocation reveals widespread dismantling of social policies*, 11 April 2022, <https://www.inesc.org.br/balanco-do-orcamento-2019-2021-revela-desmonte-generalizado-de-politicas-sociais-diz-inesc/>

<sup>126</sup> G1, "MPF diz que governo federal tenta aliciar indígenas em processo de licenciamento da Ferrogrão" ["Federal Public Prosecutor's Office says the federal government tries to coerce Indigenous peoples into Ferrogrão environmental licensing process"], <https://g1.globo.com/pa/para/noticia/2020/12/17/mpf-vai-a-justica-para-garantir-que-povos-indigenas-sejam-ouvidos-no-processo-de-licenciamento-da-ferrograo.ghtml>

<sup>127</sup> Conaq, "Nota de repúdio" ["Note of Repudiation"], 05 April 2022, <http://conaq.org.br/wp-content/uploads/2022/04/Nota-de-Repudio-Fundacao-Cultura-Palmares.pdf>

<sup>128</sup> Apib, "Apib repudia aprovação de novo Estatuto e mudanças na estrutura da Funai" ["Apib repudiates the approval of Funai new Statute and changes in its structure"], 11 October 2022, <http://obind.eco.br/2022/10/11/apib-apib-repudia-aprovacao-de-novo-estatuto-e-mudancas-na-estrutura-da-funai/>

<sup>129</sup> A study by the Instituto Socioambiental points to the flaws in the free, prior, and informed consultation processes regarding 3 federal highways projects (BR-163, BR-155/158, BR-230) and the Ferrogrão railroad (EF-170), in the state of Pará. Among the violations of the right to prior consultation, the absence of consultation in different phases of the projects, from planning to execution, as well as the deliberate exclusion of many affected peoples and communities from the consultation processes carried out, stand out. See Instituto Socioambiental. *Recommendations for the application of the right to Prior, Free, and Informed Consent regarding federal public highways and railways projects in the state of Para*, [https://www.socioambiental.org/sites/blog.socioambiental.org/files/nsa/arquivos/isa\\_r\\_a\\_d\\_af01\\_desktop.pdf#overlay-context=pt-br/users/clara](https://www.socioambiental.org/sites/blog.socioambiental.org/files/nsa/arquivos/isa_r_a_d_af01_desktop.pdf#overlay-context=pt-br/users/clara)

<sup>130</sup> These include Bill No 191/2020 – authorization for mining and related development projects on indigenous lands; Bill No 2159/2021 – flexibilization of environmental licensing; Bill No 2633/2020 – regularization of land grabbing in public lands; and Bill No 1459/2002 – flexibilization of pesticides approval rules.

- Ensure that threats and attacks against human rights defenders are promptly and thoroughly investigated, with special attention to Indigenous, Quilombolas and other traditional leaders and that those responsible are brought to justice in fair trials.
- Reject the introduction of any legislative or executive proposition that undermines the right to free, prior, and informed consent and guarantee adequate consultation and full participation of Quilombola, Indigenous, and other traditional peoples in all legislative and administrative measures affecting them.
- Adopt policies to strengthen Indigenous and environmental protection agencies, including through financial and human resources, to enable them to enforce legislation and step-up monitoring and patrol of Indigenous territories and environmentally protected areas.
- Refrain from approving bills that would “regularise” predatory actions in Indigenous and Quilombola lands, as well as any other bills that weaken the legal protection of Indigenous/Quilombola territories, reserves, and other environmentally protected areas.

## WOMEN’S RIGHTS

### GENDER-BASED VIOLENCE

Despite some advances, the cumulative and intersecting effects of systemic racism and gender discrimination have not been tackled. Black women are not only at disproportionate risk of gender-based violence and its consequences but also systemic racism has a major impact on their access to protection and safety. The high rates of femicide and sexual violence have remained consistent, disproportionately affecting Black women<sup>131</sup>. The data also confirms the State’s failure to provide adequate response and reverse this trend. In some cases, Maria da Penha Law has been discriminatorily applied by lower court judges who have been restricting the law protection to women based solely on their assigned sex.<sup>132</sup> A notable advance in the application of the Maria da Penha Law is evident in the recent Superior Court of Justice ruling in favour of the extended law application to guarantee the protection of trans women.<sup>133</sup>

	2019	2020	2021
<i>Femicide</i>	1,328 Black women: 66,6%	1,351 Black women: 61,8%	1,319 Black women: 66,7%
<i>Rape</i>	61,531*	54,116*	56,098
<i>*In 2019 and 2020, approximately 52% of rape victims were Black persons</i>			
135 of the 140 killings of transgender persons reported in 2021 were trans women and travestis.			

<sup>131</sup> The 2019 data from the Brazilian Security Forum points out that Black women suffered more violence that year. The types of violence suffered include verbal offense; threats of being beaten, pushed, or kicked; persecution; sexual offense; injuries from an object thrown at them; knife or firearm threat; beating or attempted strangulation; shot; stabbing. See Brazilian Public Security Forum, *Violence against Black People in Brazil*, 2019, <https://forumseguranca.org.br/wp-content/uploads/2021/07/infografico-consistencia-negra-2019-final-ingles-site.pdf>

<sup>132</sup> For instance, the 10th Chamber of Criminal Law of the São Paulo Court of Justice, by understanding that transgender women are not entitled to protection under the Maria da Penha Law, dismissed by a majority vote an appeal filed by a transgender woman requesting protective measures under the aforementioned law. Available at <https://ibdfam.org.br/noticias/9535/Lei+Maria+da+Penha+deve+ser+aplicada+em+caso+de+viol%C3%Aancia+dom%C3%A9stica+contra+mulher+trans%2C+decide+STJ>

<sup>133</sup> STJ, “Lei Maria da Penha é aplicável à violência contra mulher trans” [“Maria da Penha Law is extended to trans women”], 06 April 2022, <https://www.stj.jus.br/sites/porta/p/Paginas/Comunicacao/Noticias/05042022-Lei-Maria-da-Penha-e-aplicavel-a-violencia-contra-mulher-trans--decide-Sexta-Turma.aspx>

Yanomami women and girls have been facing extreme situations due to the predatory actions of individuals involved in illegal mining in their territory, such as serial rapes followed by femicides. Situations, where Indigenous women and girls find themselves forced to exchange sex for food, were also reported.<sup>136</sup> Quilombola women have been victims of femicides practiced with excessive brutality, including multiple stabbings, gas cylinder explosions, and torture.<sup>137</sup> The violence faced by women from traditional peoples is even more serious due to insufficient availability and lack of access to protection services for women victims of domestic violence.<sup>138</sup>

Black women heading Afro-Brazilian religions are disproportionately affected by violence and discrimination based on religion, intersecting with anti-Black racism, which entails risks to their lives and to personal safety, destruction of worship spaces, and religious items, among other episodes of violence.<sup>139</sup> This type of violence is perpetrated by private actors, such as drug dealers and *militia*, some of them linked to conservative discourse promoted by evangelical and neo-Pentecostal religions.<sup>140</sup> The state has not effectively addressed this issue. Some women have been forced to leave their places of worship or have been expelled from them.<sup>141</sup>

## URBAN VIOLENCE AGAINST WOMEN

In addition to extrajudicial executions, torture and other ill-treatment, sexual violence is part of the situations of police abuse of power and are generally silenced.<sup>142</sup> The State's failure to guarantee access to justice and reparation to the family members of victims of State violence has severe negative effects on their physical and mental health, especially mothers and other female relatives.<sup>143</sup> Victims and their families face numerous obstacles in accessing information about the progress of investigations regarding police abuses and unlawful killings, without support from the State.<sup>144</sup>

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<sup>134</sup> Brazilian Public Security Forum, *Violence against Women 2021*, <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf>

<sup>135</sup> National Association of Travestis and Transsexuals (Antra), "Dossiê - Assassinatos e violências contra travestis e transexuais" ["Dossier - Killings and violence against transvestis and transsexuals"], 2022, <https://antrabrasil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>

<sup>136</sup> Hutukara Associação Yanomami, *Yanomamy under attack*, 2022, [https://acervo.socioambiental.org/sites/default/files/documents/prov0491\\_0.pdf](https://acervo.socioambiental.org/sites/default/files/documents/prov0491_0.pdf)

<sup>137</sup> Conaq, *Racism and violence against Quilombos*, 2017, [https://terradireitos.org.br/uploads/arquivos/\(final\)-Racismo-e-Violencia-Quilombola\\_CONAQ\\_Terra-de-Direitos\\_FN\\_WEB.pdf](https://terradireitos.org.br/uploads/arquivos/(final)-Racismo-e-Violencia-Quilombola_CONAQ_Terra-de-Direitos_FN_WEB.pdf)

<sup>138</sup> Official data point out that, in 2018, only 8.3% of Brazilian municipalities had specialized police stations for women and only 9.7% of municipalities had specialized services for sexual violence. See Brazilian Institute of Geography and Statistics, "Database (MUNIC)", <https://agenciadenoticias.ibge.gov.br/agencia-sala-de-imprensa/2013-agencia-de-noticias/releases/25499-munic-2018-apanas-8-3-dos-municipios-tem-delegacias-especializadas-de-atendimento-a-mulher>

<sup>139</sup> Correio Braziliense, "Religiões de matriz africana são alvos de 59 dos crimes de intolerância" ["Afro-Brazilian religions are targeted in 59% of the cases of religious intolerance"], 11 November 2019, [https://www.correiobraziliense.com.br/app/noticia/cidades/2019/11/11/interna\\_cidadesdf,805394/religoes-de-matriz-africana-alvos-de-59-dos-crimes-de-intolerancia.shtml](https://www.correiobraziliense.com.br/app/noticia/cidades/2019/11/11/interna_cidadesdf,805394/religoes-de-matriz-africana-alvos-de-59-dos-crimes-de-intolerancia.shtml)

<sup>140</sup> 2022 Data from the Religious Freedom Observatory point out that, in 56% of 47 attacks against Afro-Brazilian religions registered in 2021, the perpetrators were linked to evangelical religions. See G1, "Estudo mostra que religiões de matrizes africanas foram alvo de 91% dos ataques no RJ em 2021" ["Study shows that Afro Brazilian religions origins were the target of 91% of attacks in Rio de Janeiro in 2021"], 22 January 2022, <https://g1.globo.com/rj/rio-de-janeiro/noticia/2022/01/22/estudo-mostra-que-religoes-de-matrizes-africanas-foram-alvo-de-91percent-dos-ataques-no-rj-em-2021.ghtml>

<sup>141</sup> Alma Preta, "RJ: mãe de santo foge de seu terreiro por conta de ameaças" ["Rio de Janeiro: Priestess flees from her place of worship due to death threats"], 16 June 2022, <https://www.terra.com.br/nos/rj-mae-de-santo-foge-de-seu-terreiro-por-conta-de-ameacas,7b59b57e6f0712ba6a326a58228de890wb1ueliu.html>; See Also O Globo, "Pais e mães de santo expulsos de Duque de Caxias temem novos ataques de traficantes e milicianos" ["Priests and Priestess expelled from Duque de Caxias fear new attacks by drug dealers and militias"], 11 August 2020, <https://g1.globo.com/rj/rio-de-janeiro/noticia/2020/08/11/pais-e-maes-de-santo-expulsos-de-duque-de-caxias-temem-novos-ataques-de-trafficantes-e-milicianos.ghtml>

<sup>142</sup> The Favela Nova Brasília case is emblematic in this respect. In this case, the Brazilian State was convicted by the Inter-American Court of Human Rights for violations in police operations that resulted in 26 killings and sexual violence against three young women in 1994/1995. See <https://www.corteidh.or.cr/cf/jurisprudencia2/overview.cfm?doc=1787&lang=en>

<sup>143</sup> Folha de São Paulo, "Mães que tiveram filhos mortos pela polícia temem que o mesmo ocorra aos que estão vivos" ["Mothers who had children killed by the police fear that the same happens to those who are alive"], 7 August 2019 Available at <https://www1.folha.uol.com.br/cotidiano/2019/08/maes-que-tiveram-filhos-mortos-pela-policia-temem-que-o-mesmo-ocorra-aos-que-estao-vivos.shtml>

<sup>144</sup> Intercept, "As mães que tiveram seus filhos assassinados pelo Estado decidiram fazer o trabalho da polícia: investigar" ["Mothers whose children were killed by the State decided to do the police's job: to investigate"], 13 May 2018, <https://theintercept.com/2018/05/13/maes-com-filhos-assassinados-pelo-estado/>

Black women face a daily struggle to ensure the survival of their families in both economic terms and in terms of developing protection strategies against urban and state violence. These women safeguard the survival of their communities and are at the frontline of the struggle for rights, without State support and at a high cost to their physical and mental health. In urban centres, unlawful police operations cost hundreds of lives and destroy livelihoods. Long-term closures of schools, businesses, and health clinics during these operations have a huge impact on women, reinforcing patterns of social exclusion.<sup>145</sup> Trans women are disproportionately victims of violence, especially black trans women.<sup>146</sup>

Amnesty International research pointed to childcare as a major concern for Black women in historically disadvantaged communities. Many women work long hours in poorly paid and insecure jobs far from home, often as domestic workers. Crèche places are scarce and while some women can rely on families or friends for childcare, others said they were forced to lock their children in the house while they were out for fear that they would be recruited by drug gangs or injured in shootouts<sup>147</sup>. The research findings also revealed that social and economic exclusion put Black women at greater risk during pregnancy and childbirth. Health professionals are reluctant to enter excluded communities because of violence. Many of the women interviewed by Amnesty International were suffering from some form of trauma. Few, if any, had access to proper medical or psychological care, and those that did invariably received this from a social project and not from the State<sup>148</sup>.

## BLACK WOMEN DEPRIVED OF THEIR LIBERTY

36,999 women were deprived of their liberty in 2020, while 45,218 women were found in this situation in 2021.<sup>149</sup> The main reason behind the high numbers of incarcerated women continues to be the crimes related to the “war on drugs”, a result of the discriminatory application of anti-drug law (Law No. 11,343/2006), especially regarding the crime of drug trafficking<sup>150</sup>. Black women represent more than 60% of the female prison population.<sup>151</sup> 12,821 women deprived of their liberty are mothers of children up to 12 years old.<sup>152</sup> A substantial number of mothers, pregnant women, and caregivers do not have access to house arrests or other alternatives to prison, as they are entitled to by Law No. 13,769/2018.<sup>153</sup> 4,052 imprisoned women suffer from chronic diseases or respiratory illnesses.<sup>154</sup> Half of the Brazilian prisons have no medical facilities or rooms equipped for treating people with infections, and those that do lack medical staff.<sup>155</sup>

## SEXUAL AND REPRODUCTIVE RIGHTS

Post COVID-19 pandemic, there is a considerable increase in maternal mortality in Brazil. The maternal mortality ratio has increased from 57 maternal deaths per 100,000 live births in 2019 to 67 in 2020. In 2021, there were 107 maternal deaths per 100,000 live births, with more than 1500 maternal deaths attributable to COVID-19.<sup>156</sup> Black women experience higher rates of maternal mortality and morbidity, which have disproportionately increased during the COVID-19 pandemic. From February 2020 to May 2021, there

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<sup>145</sup> Amnesty International, “The Police only come to collect the bodies”, 17 april 2008, <https://www.amnesty.org/en/documents/amr19/003/2008/en/>

<sup>146</sup> Folha de São Paulo. “80% das pessoas trans mortas por violência no Brasil são pretas e pardas” [80% of trans people killed by violence in Brazil are Black and pardas], 20 November 2020, <https://www1.folha.uol.com.br/cotidiano/2020/11/80-das-pessoas-trans-mortas-por-violencia-no-brasil-sao-pretas-e-pardas-diz-organizacao.shtml>

<sup>147</sup> Id. Ibid.

<sup>148</sup> Id. Ibid.

<sup>149</sup> Brazilian Public Security Forum, *2022 Brazilian Public Security Yearbook*, <https://forumseguranca.org.br/wp-content/uploads/2022/06/anoario-2022.pdf?v=5>

<sup>150</sup> According to the latest report on women’s imprisonment by the Ministry of Justice, 3 out of 5 women were in the prison system due to crimes related to drug trafficking. DEPEN, “Infopen Mulheres”, 2018, [https://conectas.org/wp-content/uploads/2018/05/infopenmulheres\\_arte\\_07-03-18-1.pdf](https://conectas.org/wp-content/uploads/2018/05/infopenmulheres_arte_07-03-18-1.pdf)

<sup>151</sup> DEPEN, “Infopen Mulheres”, 2018, [https://conectas.org/wp-content/uploads/2018/05/infopenmulheres\\_arte\\_07-03-18-1.pdf](https://conectas.org/wp-content/uploads/2018/05/infopenmulheres_arte_07-03-18-1.pdf)

<sup>152</sup> See compiled data of pregnant women, women with children, elderly or sick from the National Penitentiary Department (2020). Available at [http://www.susepe.rs.gov.br/upload/1588195416\\_SEI\\_MJ11429916Informao\\_final.pdf](http://www.susepe.rs.gov.br/upload/1588195416_SEI_MJ11429916Informao_final.pdf)

<sup>153</sup> Land, Work and Citizenship Institute. *Implementation of house arrest for women in Brazil in light of the Access to Information Law*, 2021, <https://ponte.org/wp-content/uploads/2021/12/Relatorio-LAI.pdf>

<sup>154</sup> The most common diseases among women in prisons are hypertension (2,452 cases), HIV (434 cases), and diabetes (411). See compiled data of pregnant women, women with children, elderly or sick from the National Penitentiary Department (2020). Available at [http://www.susepe.rs.gov.br/upload/1588195416\\_SEI\\_MJ11429916Informao\\_final.pdf](http://www.susepe.rs.gov.br/upload/1588195416_SEI_MJ11429916Informao_final.pdf)

<sup>155</sup> According to the Global Report Prison Trends 2021. Available at <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

<sup>156</sup> Damiao Soares Tenorio *et. al.*, High maternal mortality rates in Brazil: Inequalities and the struggle for justice, 03 August 2022, [https://www.thelancet.com/journals/lanam/article/PIIS2667-193X\(22\)00160-0/fulltext](https://www.thelancet.com/journals/lanam/article/PIIS2667-193X(22)00160-0/fulltext)

were 1,114 maternal deaths of Black women, amounting to 77% more deaths compared to the maternal deaths among white women, while Black women<sup>157</sup> comprise 50% of the overall female population.<sup>158</sup>

There had been a crisis in the provision of lawful abortion services, further aggravated by the COVID-19 pandemic, which resulted in many services being halted.<sup>159</sup> In 2020, the Ministry of Health amended Ordinance No. 2,282/2020 and updated the procedures for the legal termination of pregnancy and was widely criticised by health professionals for bringing provisions that reinforce police surveillance of pregnant people seeking abortion which will deter them from lawful abortion services<sup>160</sup>. The Bolsonaro administration has also made room for strengthening anti-abortion groups' advocacy against sexual and reproductive rights of women and girls.<sup>161</sup>

## RECOMMENDATIONS

- Take urgent measures to prevent, investigate and prosecute domestic violence and femicides of Black women and girls, with attention to the situation of Black trans women. Incorporate into the plans, programmes, and policies regarding violence against women a differentiated approach that takes into account the specific protection needs of Black women, with attention to Black trans women.
- Ensure that protection mechanisms, legal aid, and support services for survivors of gender-based violence are sufficiently resourced and accessible to Black women and girls and Black trans women, who need to access them without institutional discrimination.
- Ensure protection against violence and discrimination based on religion, intersecting with anti-Black racism, which disproportionately affects Black women leaders of religions of African origin.
- Ensure universal access to comprehensive sexual and reproductive health services, without discrimination, including availability and accessibility of existing lawful abortion services, tackling institutional racism.
- Take urgent steps to revise anti-drug law (Law No 11,343/2006), establishing well-defined criteria for the crime of drug trafficking in order to reduce mass incarceration, especially Black women's incarceration.
- Ensure that justice operators enforce Law No. 13,769/2018, which establishes the right to house arrest for pregnant women, women with children, or caregivers, including during pretrial detention. Ensure that Black women are not left behind in enforcing this law.
- Identify, create, implement and monitor public security policies, plans, and projects to meet the specific needs of Black women and Black trans women, especially those living in socially excluded communities so that they can live their lives and access public services without fear of violence. Take immediate steps to improve access to crèche facilities and to identify and address the factors which are limiting access to healthcare for women in socially excluded communities, with particular emphasis on pregnant women and new mothers.

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<sup>157</sup> Criola, "Criola alerta sobre o aumento da mortalidade materna em todo o país, agravada pela Covid-19" ["Criola warns about the increase in maternal mortality across the country, aggravated by Covid-19"], 25 May 2021, <https://criola.org.br/no-mes-de-luta-pela-saude-da-mulher-criola-alerta-sobre-o-aumento-da-mortalidade-materna-em-todo-o-pais-agravada-pela-covid-19/>

<sup>158</sup> Institute for Applied Economic Research, *Black Women Dossier*, 2013, [https://www.ipea.gov.br/igualdaderacial/index.php?option=com\\_content&view=article&id=735](https://www.ipea.gov.br/igualdaderacial/index.php?option=com_content&view=article&id=735)

<sup>159</sup> Folha de São Paulo, "Pandemia aprofunda a crise em serviços de aborto legal e profissionais buscam saídas" ["Pandemic deepens the crisis in services for legal abortion and professionals seek a way out"], 6 March 2021, <https://www1.folha.uol.com.br/cotidiano/2021/03/pandemia-aprofunda-crise-em-servicos-de-aborto-legal-e-profissionais-buscam-saidas.shtml>

<sup>160</sup> See Position of the Brazilian Society for Family and Community Medicine. Available at <https://www.sbmfc.org.br/noticias/posicionamento-sobre-a-portaria-do-ministerio-da-saude-no-2-282-de-27-8-2020/>

<sup>161</sup> See The Guardian, Brazil: outcry as religious extremists harass child seeking abortion, 07 August 2020, <https://www.theguardian.com/world/2020/aug/17/brazil-protest-abortion-recife-hospital>



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# BRAZIL

## SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

108<sup>TH</sup> SESSION, 7 NOVEMBER -2 DECEMBER 2022

This submission is submitted in advance of the review of Brazil under the International Convention on the Elimination of All Forms of Racial Discrimination in November 2022. It focusses on Brazil's failure to address racial and structural discrimination, the situation of economic and social rights of the Afro-Descendant population, and the restrictive environment for Afro-Brazilians to exercise their civil and political rights, as well as through political participation. It further expresses the organization's concerns regarding the criminal justice system, unlawful killings, extrajudicial executions, and the excessive use of force by law enforcement officials through a lens of institutional racism. Lastly, it also raises concerns about the human rights situation of structurally discriminated groups, among them the situation of Black, Indigenous, and Quilombola women, as well as concerns about violence related to land disputes with worrying numbers of attacks against Indigenous and Quilombola peoples. This submission mainly refers to articles 2, 5, and 6 of the Convention and should not be seen as an exhaustive account of the organization's concerns.