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**SUBMISSION TO THE HUMAN RIGHTS COMMITTEE
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INTRODUCTION

Amnesty International submits the following information to the UN Human Rights Committee ahead of the third periodic report of Brazil at the Committee's 138th session in June 2023.

The submission sets out Amnesty International's concerns and recommendations regarding the implementation of the International Covenant on Civil and Political Rights (the Covenant) by the government of Brazil. It highlights Brazil's failure to address extrajudicial executions and other violations committed in the context of policing and the so-called "war on drugs", especially its disproportionate and discriminatory impact on Black people driven by systemic racism. It further expresses concern over the authorities' failure to tackle the cumulative and intersecting effects of systemic racism and gender discrimination, which are driving instances of gender-based violence and other violations of women's rights that disproportionately affect Black women. Then, the submission addresses problems related to the shrinking space for civil society organizations and human rights defenders. Lastly, it raises concern over the situation of Indigenous, Quilombola,¹ and other traditional peoples, including concerns about violence related to land disputes with worrying numbers of threats and attacks against Indigenous and Quilombola peoples.

This submission is not an exhaustive account of Amnesty International's concerns related to Brazil's implementation of the Covenant.

EXTRAJUDICIAL EXECUTIONS, USE OF FORCE AND OTHER VIOLATIONS IN THE CONTEXT OF POLICING AND THE "WAR ON DRUGS" (ARTICLES 2, 6, 14 AND 26)

Anti-drug operations by the police in Brazil, which are based on the premises of prohibition and criminalization, have primarily favoured the use of force by law enforcement officials and other state agents based on the premise that national security or public safety is at stake. The authorities have heavily relied on military techniques, training and equipment for use by the police and other security forces as part of their efforts to stem the use and distribution of illicit drugs. The militarization of policing as part of Brazil's domestic drug control efforts has led to widespread human rights violations, including overly frequent recourse to the use of lethal force in violation of the right to life.

Police forces across the country have adopted a model of action based on repressive police interventions in marginalized communities, particularly in favelas, where anti-drug operations by the police have intended to curb the trade of illicit drugs. Moreover, security forces have relied on the lack of clear regulations on the use of heavy weapons and armoured vehicles in densely populated urban areas, which have led to large-scale militarized operations resulting in a high death toll at the hands of the police, disproportionately affecting young Black men. The control of the trade in illicit drugs by criminal groups operating in certain marginalized communities has served as a pretext to feed a narrative of war that portrays the favelas as spaces that are beyond the control of the state and need to be won back from an enemy.

When anti-drug operations result in deaths, official narratives consistently blame the victims who are stigmatized by a culture of systemic racism, discrimination and criminalization of poverty.² Statements by police officers and other authorities generally describe a situation of confrontation with suspected criminals that further stigmatizes the victims and their families. By listing police killings as the result of a confrontation, the authorities effectively blame victims for their own death making this version the starting point of any

¹ Afro-descendant communities, similar to tribal communities, considering international standards.

² Amnesty International (2015), "You killed my son: Homicide by military police in the city of Rio de Janeiro" available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

further police investigation.³ In cases where the police link the victim to criminal gangs, investigations have only sought to support the testimony of the police to prove that the killing occurred in self-defence.

Overall, the heavy reliance on militarized techniques and equipment has failed to decrease the use and availability of drugs and has instead undermined the rights of millions, exacerbated the risks and harms of using drugs, and intensified the violence associated with illicit markets. The Brazilian government should instead adopt new models of drug control that put the protection of people's health and other human rights at the centre, including the decriminalization of the use, possession and cultivation of drugs for personal use and an expansion of health and other social services to address the risks related to the use of drugs.

EXTRAJUDICIAL EXECUTIONS AND OTHER UNLAWFUL KILLINGS

The “war on drugs” narrative has been used to justify militarized operations in favelas and Black communities to address problems related to the use and sale of drugs, leading to the use of unnecessary and excessive force that in many instances has resulted in extrajudicial executions of mostly Black people living in favelas.⁴ For the last two decades, Amnesty International has documented a range of other human rights violations resulting from police operations conducted as part of Brazil's drug control efforts, including violations of the right to privacy due to unwarranted and unlawful home incursions,⁵ torture and other forms of ill-treatment,⁶ restrictions on freedom of movement, and suspensions of essential services such as the closing of schools and health facilities with a great impact on economic, social and cultural rights of already marginalized communities.⁷

According to the NGO Fórum Brasileiro de Segurança Pública, 6.145 people were killed by police officers in 2021 – a slight decrease compared to 2020 when police killed a record number of 6.412 people.⁸ More than 84% of victims of killings by police in 2021 were Black and the large majority were men.⁹ According to media reports, it is estimated that police officers killed at least 787 children in 2020 of which nearly 80% were Black and 90% were boys.¹⁰

Amnesty International has documented multiple cases of extrajudicial executions and other unlawful killings, particularly in Rio de Janeiro. Ágatha Felix (8 years old) and João Pedro (14 years old) were unlawfully killed in police raids in September 2019 and May 2020, respectively.¹¹ In May 2021, 28 residents were unlawfully killed during a police operation dubbed “Operação Exceptis” in the favela of Jacarezinho.¹² A month later, a police operation in the community of Lins de Vasconcelos resulted in the death of Kathlen Romeu who was four months pregnant.¹³ In November 2021, a police raid in Complexo do Salgueiro resulted in nine unlawful killings.¹⁴ In May 2022, 24 residents of a favela were unlawfully killed as a result of a police operation in Vila Cruzeiro (Complexo da Penha),¹⁵ and another police operation in Complexo do Alemão in July 2022 resulted

³ Zaccane, Orlando (2015). “Indignos de vida: a forma jurídica da política de extermínio de inimigos na cidade do Rio de Janeiro”, Editora Revan, 2015

⁴ Amnesty International (2015), “You killed my son: Homicide by military police in the city of Rio de Janeiro” available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>; See also Amnesty International (2022), Annual Report 2021/22, p. 101 available at <https://www.amnesty.org/en/latest/research/2022/03/annual-report-202122>

⁵ O tempo (2022), “Moradores relatam morte a facadas e casas invadidas por PMs em operação no Rio”, 26 May 2022, available at <https://www.otempo.com.br/brasil/moradores-relatam-morte-a-facadas-e-casas-invadidas-por-pms-em-operacao-no-rio-1.2674940>

⁶ O dia (2022), “Moradores relatam invasão, roubo e tortura por parte de PMs na Cidade de Deus”, 27 June 2022, available at <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>

⁷ Extra (2022), “Operações no Rio deixam 27 escolas fechadas no primeiro dia de ano letivo”, 7 February 2022, available at <https://extra.globo.com/casos-de-policia/operacoes-no-rio-deixam-27-escolas-fechadas-no-primeiro-dia-de-ano-letivo-25384413.html>

⁸ Fórum Brasileiro de Segurança Pública (2022), “Anuário Brasileiro de Segurança Pública 2022” available at <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=15>

⁹ Fórum Brasileiro de Segurança Pública (2022), “Anuário Brasileiro de Segurança Pública 2022” available at <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=15>

¹⁰ Correio Braziliense (2021), “Polícia matou 2 crianças e adolescentes por dia no Brasil em 2020”, 22 October 2021, available at <https://www.correiobraziliense.com.br/brasil/2021/10/4957276-policia-matou-2-criancas-e-adolescentes-por-dia-no-brasil-em-2020.html>

¹¹ Amnesty International (2020), “Caso Ágatha Félix: Anistia Internacional exige política de segurança pública baseada em inteligência e treinamento” 21 September 2020, available at <https://anistia.org.br/informe/caso-agatha-felix-anistia-internacional-exige-politica-de-seguranca-publicabaseada-em-inteligencia-e-treinamento/>; Amnesty International (2021), “Assassinato de João Pedro Matos faz 1 ano e Anistia Internacional exige respostas” 18 May 2021, available at <https://anistia.org.br/informe/assassinato-de-joao-pedro-matos-faz-1-ano-e-anistia-internacional-brasil-exige-respostas>

¹² Amnesty International (2021), “Chacina do Jacarezinho: lamentável e injustificável”, 6 May 2021, available at <https://anistia.org.br/informe/chacina-do-jacarezinho-lamentavel-e-injustificavel/>

¹³ Amnesty International (2021), “100 dias sem direitos: as violações do governo Bolsonaro”, available at https://anistia.org.br/wp-content/uploads/2021/09/relatorio_1000-dias-governo-bolsonaro.pdf

¹⁴ Amnesty International (2021), “Anistia Internacional cobra investigação rigorosa sobre chacina no complex do Salgueiro”, available at <https://anistia.org.br/informe/nota-publica-anistia-internacional-brasil-cobra-investigacao-rigorosa-sobre-chacina-no-complexo-dosalgueiro/>

¹⁵ Amnesty International (2022), “Anistia Internacional Brasil cobra respostas do Governo do Estado do Rio de Janeiro e do Ministério Público diante de chacina da Vila Cruzeiro”, available at <https://anistia.org.br/informe/anistia-internacional-brasil-cobra-respostas-do-governo-do-estado-do-rio-de-janeiro-e-do-ministerio-publico-diante-de-chacina-da-vila-cruzeiro/>

in the unlawful killing of 19 residents.¹⁶ In 2023, another raid in Complexo do Salgueiro, in Sao Gonçalo, resulted in 13 unlawful killings and 16 people wounded, including two older women.¹⁷

In an effort to curb the use of unlawful force by security forces, including the use of lethal force, the Office of the Public Defenders in Rio de Janeiro filed a constitutional claim before the Federal Supreme Court aimed at stopping police raids in Rio de Janeiro's favelas in the context of the Covid-19 pandemic.¹⁸ In June 2020 and subsequently in May 2022, the court ordered the suspension of police raids in Rio de Janeiro's favelas during the Covid-19 pandemic, banned police from firing from helicopters, compelled the state of Rio de Janeiro to develop a plan aimed at reducing killings by the police and ordered the police to adequately preserve crime scenes and to install cameras and GPS equipment in police vehicles and on police uniforms.¹⁹

While decisions by the Federal Supreme Court initially contributed to a reduction in killings by police in Rio de Janeiro,²⁰ security forces gradually stopped implementing orders by the Supreme Court such as the requirement to notify police operations to the Public Prosecutor's Office and the order to conduct police raids only in exceptional cases.²¹ As a result, the number of killings perpetrated by security forces increased by 185% in January and February 2021 compared to the first four months after the first Supreme Court order in June 2020.²²

MILITARIZATION OF PUBLIC SECURITY

Anti-drug operations carried out in favelas and Black communities in Brazil have been characterized by the use of heavy weapons, including rifles, and armoured cars known as "caveirões" ("big skulls") that are designed as weapons of war.²³ The use of this type of vehicle has resulted in countless violations of human rights, particularly in poor and densely populated favelas, disproportionately affecting young Black men residing in these communities. Amnesty International has also documented several cases in which people were wounded or even killed by splinters or projectiles from firearms that can penetrate the walls of houses.²⁴

The use of heavy weaponry has been prioritized over the years as the main way to combat organized crime in favelas and Black communities and has become the primary form adopted by the State in these areas to control illicit drug markets.²⁵ Despite broadly similar rates of use and sale of drugs across racial and ethnic groups, tactics used by the police vary substantially in wealthy neighbourhoods and places with a predominance of white population.²⁶

In some instances, militarized policing operations have repeatedly targeted whole communities disrupting the provision of local services and resulting in violations of a range of economic, social and cultural rights,

¹⁶ Amnesty International Brazil (2022), "Chacina não pode se tornar política de segurança pública, afirma Anistia Internacional Brasil após o assassinato de pelo menos 19 no Complexo do Alemão", available at <https://anistia.org.br/informe/chacina-nao-pode-se-tornar-politica-de-seguranca-publica-afirma-anistia-internacional-brasil-apos-assassinato-de-pelo-menos-19-no-complexo-do-alemao/>

¹⁷ Amnesty International Brazil (2023), "A política do extermínio do governo Cláudio Castro não garante segurança a ninguém", afirma Anistia Internacional Brasil", available at <https://anistia.org.br/informe/a-politica-do-extermio-do-governo-claudio-castro-nao-garante-seguranca-a-ninguem-afirma-anistia-internacional-brasil/>

¹⁸ ADPF (Claim of Non-compliance with a Fundamental Precept) constitutional claim. Case No. 635, also called in Brazil ADPF das Favelas.

¹⁹ The plan for reducing police lethality in Rio de Janeiro had been previously ordered by the Inter-American Court of Human Rights in the case of *Favela Nova Brasília*. The state of Rio de Janeiro published the plan on March 2022 (Decree No. 47,802/2022), a proposal criticised especially for the lack of specific goals and indicators to reduce police lethality and the lack of civil society participation. In May 2022, as part of ADPF 635, the Supreme Court ordered the State to ensure effective civil society participation and public hearings.

²⁰ 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, killings were reduced by 80%. See Cesec, "Interrupção de operações policiais no auge da pandemia mostrou que outra política de segurança é possível", 22 October 2020 available at <https://cesecseguranca.com.br/reportagens/interrupcao-de-operacoes-policiais-no-auge-da-pandemia-mostrou-que-outra-politicade-seguranca-e-possivel/>

²¹ Veja (2021), "Mesmo com a suspensão do STF, polícia do Rio faz operação e deixa 25 mortos", 6 May 2021, available at <https://veja.abril.com.br/brasil/mesmo-com-suspensao-do-stf-policia-do-rio-faz-operacao-e-deixa-25-mortos/>

²² Grupo de Estudos dos Novos Illegalismos and Federal Fluminense University (2021), "Police raids and lethal violence: the impacts of ADPF 635 in the right to live", available at http://geni.uff.br/wpcontent/uploads/sites/357/2021/04/Relatorio-audiencia_balanco_final_22_03_2021-1.pdf

²³ Amnesty International (2007), "Brazil: 'From burning buses to caveirões': the search for human security", 2 May 2007, available at <https://www.amnesty.org/en/documents/amr19/010/2007/en/>

²⁴ Amnesty International (2015), "You killed my son: Homicide by military police in the city of Rio de Janeiro" available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

²⁵ Amnesty International (2015), "You killed my son: Homicide by military police in the city of Rio de Janeiro" available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

²⁶ Nathália Oliveira and Eduardo Ribeiro, "The massacre of Black Brazilians in the war on drugs", Sur – International Journal on Human Rights, Issue 28, December 2018, available at <https://sur.conectas.org/en/the-massacre-of-black-brazilians-in-the-war-on-drugs/>

including the rights to health, education and food.²⁷ According to media reports, more than 80.000 students in 243 schools were affected by police operations in Rio de Janeiro in the first four months of 2023 alone.²⁸

Article 144 of Brazil's Federal Constitution states that public security shall be exercised to maintain law and order and to protect people and property through certain police forces.²⁹ While the Constitution places policing as an activity under civilian control, several police forces have adopted military techniques, training and equipment. Both the Military Police and the Civil Police, the two main police forces due to their powers and number of officers, have been widely militarized despite their subordination to local civilian governments since 1985. Military Police forces are by far the most numerous and are subordinated to elected state governors, although they are also considered as auxiliary reserve forces of the army. According to the Constitution, the Military Police is responsible for street patrols and maintaining law and order, while Civil Police is responsible for investigating criminal offences.

In addition to state forces, federal police forces such as the Federal Police (with powers to investigate federal and international crimes) and the Federal Highway Police (responsible for patrolling federal roads) have also been recently involved in police raids leading to unlawful killings.³⁰ The Federal government also has the power to deploy the National Force (Força Nacional) and the Federal Taskforce for Penitentiary Intervention (FTIP),³¹ which are comprised of local police members drafted for these special forces, when requested by local governments. The armed forces can also be deployed by the federal government when it is claimed that local governments cannot maintain public order, such as in Rio de Janeiro in 2018.³²

International human rights law is clear that the maintenance of public order must be primarily reserved for civilian police forces, who should be trained and equipped with various types of weapons and ammunition to allow for a differentiated use of force and firearms in accordance to the principles of necessity and proportionality.³³ States should only resort to military forces in extraordinary cases and ensure that their intervention is justified to be exceptional, temporary and restricted to what is strictly necessary in the specific circumstances.³⁴ In such exceptional circumstances, the participation of the armed forces must be subordinated and complementary to civilian police forces, and be regulated and supervised by civilian authorities. In addition, when military personnel perform functions that would normally correspond to civilian forces, they must be subject in all respects to the same rules and procedures as those established for law enforcement officials.

DISPROPORTIONATE AND DISCRIMINATORY IMPACT ON YOUNG BLACK MEN

Racism in Brazil is systemic, institutional, and multi-layered as it intersects with gender and class oppression in a way that contributes towards deepening the marginalization and inequality of Black people in different spheres of social life.³⁵ Racism has equally played a key role in the disproportionate impact of police operations in favelas leading to unlawful killings of predominantly young, Black men revealing one of the most perverse aspects of systemic racism in Brazil.³⁶

Reports by civil society organizations and human rights mechanisms have long shown the disproportionate and discriminatory impact of anti-drug operations on Black men.³⁷ Reports by the Fórum Brasileiro de Segurança Pública indicate that at least 43.171 people were killed by Civil or Military police officers across the country between 2013 and 2021. In 2013, there were 2.212 registered deaths but this number increased to 6.412 in 2020 and 6.145 in 2021. In 2021, 99.2% of the victims of lethal force by the police

²⁷ Amnesty International (2015), "You killed my son: Homicide by military police in the city of Rio de Janeiro" available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

²⁸ Metropoles (2023), "Operações policiais no Rio de Janeiro afetaram 80 mil alunos em 2023", 7 April 2023 available at <https://www.metropoles.com/colunas/guilherme-amado/operacoes-policiais-no-rio-de-janeiro-afetaram-80-mil-alunos-em-2023>

²⁹ Brasil, Constituição Federal de 1988, available at https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm

³⁰ Insight Crime (2022), "Why is Brazil's highway police suddenly killing so many people?", 9 August 2022, available at <https://insightcrime.org/news/brazil-highway-police-suddenly-killing-many-people/>

³¹ National Preventive Mechanism of Brazil (MNPCT) (2022), "MNPCT e MEPCT/ RJ enviam contribuição à responsável pela pauta do sistema prisional do Grupo de Transição do MJS", 12 December 2022 available at <https://mnpctbrasil.wordpress.com/2022/12/12/mnpct-e-mepct-rj-enviam-contribuicao-a-responsavel-pela-pauta-do-sistema-prisional-do-grupo-de-transicao-do-mjsp/>

³² BBC (2018), "Rio military deployment stirs controversy in Brazil", 28 February 2018, available at <https://www.bbc.co.uk/news/world-latin-america-43225217>

³³ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

³⁴ Inter-American Court of Human Rights, *Alvarado Espinoza and others v. Mexico*, 28 November 2018, para. 182

³⁵ Universidade Estadual do Rio de Janeiro (2022), "Relatório das Desigualdades Raciais 2022", December 2022, available at <https://gema.iesp.uerj.br/wp-content/uploads/2023/02/Relatorio-das-Desigualdades-Raciais-2022-1.pdf>

³⁶ Centro de Estudos de Segurança e Cidadania, "Pele Alvo: A cor que a polícia apaga", November 2022, available at <https://cesecseguranca.com.br/wp-content/uploads/2022/11/Pele-alvo-2.pdf>

³⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (2004), Mission to Brazil, 28 January 2004, UN Doc. E/CN.4/2004/7/Add.3; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Brazil, 23 March 2009, UN Doc. A/HRC/11/2Add.2; Committee on the Elimination of Racial Discrimination, Concluding observations on the combined eighteenth to twentieth periodic reports of Brazil, 19 December 2022, UN Doc. CERD/C/BRA/CO/18-20

were male and 84.1% of the victims were Black.³⁸ These rates could be even higher due to under-reporting and frequent lack of government data disaggregated by race and colour.³⁹

POLICE OVERSIGHT AND ACCOUNTABILITY MECHANISMS

Police oversight and accountability mechanisms in Brazil are fragile. Formally, police oversight is carried out by internal and external supervising bodies responsible for investigating violations and other irregularities committed by law enforcement personnel. The Public Prosecutor's Office is the competent independent authority with responsibilities regarding the external control of police activity,⁴⁰ holding the necessary autonomy for supervising police conduct and ensuring accountability. Despite the attempt from the National Council of the Brazilian Public Prosecutor's Office to establish guidelines for the performance of prosecutors regarding the external control of police activity,⁴¹ there is no national monitoring or standardized procedure for the role of the Public Prosecutor's Office in this matter.

In some states, the Ombudsperson is also empowered to receive, refer and oversee complaints from the public about abuses committed by the police. However, Ombudsperson offices across the country have been characterized by a lack of independence, institutional and material resources, and investigatory powers, which limits their ability to effectively supervise police activity.⁴²

Civil society organizations have no effective mechanisms to participate in the oversight of police activity. Amnesty International has found important shortcomings in the recording of police incidents and the lack of transparency and standardization of the data produced by the Secretariats for Public Security of the different states make it difficult to consolidate information about killings by the police at the national level.⁴³ In states where it is possible to find some level of transparency and ease of accessing statistical data, civil society organizations have been able to some extent to monitor and engage in a more informed public debate on public security policy.

Secrecy continues to be a barrier to the responsible use of force and police technologies. States have continuously failed to ensure transparency about the procedures followed in police operations, including during investigations and their findings. As mandated by international human rights law, any limitations on transparency must be strictly necessary for a legitimate purpose, such as protecting the privacy and safety of affected individuals, ensuring the integrity of ongoing investigations, or securing sensitive information about intelligence sources or police operations. In no circumstances may the State restrict transparency in a way that would conceal the facts leading to an unlawful killing or that would result in impunity for those suspected of criminal responsibility.

IMPUNITY AND ACCESS TO JUSTICE

Criminal investigations by the Public Prosecutor's Offices into killings by the police are rare and, when initiated, they are often flawed and slow. In an emblematic example of historical impunity, in August 2021, the Rio de Janeiro State Court acquitted five police officers charged with the unlawful killing of 13 people in the 1994 massacre in Nova Brasília favela,⁴⁴ Rio de Janeiro, in an investigation prompted by a ruling of the Inter-American Court of Human Rights.⁴⁵

According to the Grupo de Estudos dos Novos Illegalismos, the Public Prosecutors' Office only pressed charges in two out of 27 cases involving three or more killings by the police in Rio de Janeiro over the last 15 years despite police officers being responsible for 35.4% of all killings in the Metropolitan Region of Rio in

³⁸ Fórum Brasileiro de Segurança Pública (2022), "Anuário Brasileiro de Segurança Pública 2022" available at <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022.pdf?v=15>

³⁹ Centro de Estudos de Segurança e Cidadania, "Pele Alvo: A cor que a polícia apaga", November 2022, available at <https://cesecseguranca.com.br/wp-content/uploads/2022/11/Pele-alvo-2.pdf>

⁴⁰ Federal Constitution of Brazil, Article 129, VII, available at https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm
⁴¹ Conselho Nacional do Ministério Público (CNMP), Resolution No 129, 2015, establishing 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-enormas/norma/3514/&highlight=WyJwb2xpY2lhbCIsInBvbGJjaWFsJyJd>; Resolution No 20, 2007, establishing rules for the external control of police activity, <https://www.cnmp.mp.br/portal/atos-enormas/norma/479/&highlight=WyJwb2xpY2lhbCIsInBvbGJjaWFsJyJd>

⁴² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Brazil, 23 March 2009, UN Doc. A/HRC/11/2/Add.2, para. 74.

⁴³ Amnesty International (2015), "You killed my son: Homicide by military police in the city of Rio de Janeiro" available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

⁴⁴ Amnesty International (2021), "Chacina de Nova Brasília – Impunidade Crônica perpetua ciclo de violências e violações de direitos humanos", 21 August 2021, available at <https://anistia.org.br/informe/chacina-de-nova-brasil-impunidade-chronica-perpetua-ciclo-de-violencias-e-violacoes-de-direitos-humanos-afirma-anistia-internacional-brasil/>

⁴⁵ Inter-American Court of Human Rights, *Favela Nova Brasília v. Brazil*, 16 February 2017. The Court found Brazil responsible for the violation of the right to the judicial guarantees due to the lack of 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; and the right to personal integrity established in Article 5(1) of the American Convention on Human Rights.

the last three years.⁴⁶ Data gathered by the Fórum Brasileiro de Segurança Pública similarly revealed that Public Prosecutor's Offices in Rio de Janeiro and São Paulo requested in 2016 to archive nine out of ten cases of deaths caused by police in these cities.⁴⁷ More recently, the Public Prosecutor's Office closed the investigation into 24 out of the 28 deaths during a police operation in the Jacarezinho favela in May 2021 for lack of evidence.⁴⁸

While investigations are still ongoing into the Vila Cruzeiro massacre that left at least 23 people dead in May 2022, undue pressure by state officials are hampering the investigation after claiming that the deaths were the result of a legitimate police operation and reinforcing harmful stereotypes against favela residents, who are in its majority Black, such as the alleged involvement of the victims with organized crime and that the deaths were the result of violent confrontations with “dangerous criminals”.⁴⁹

Amnesty International has also documented how the legal figure of “auto de resistência” (or “resistance followed by death”) has functioned as a clear obstacle to guarantee access to justice to victims of killings by the police. Police officers are required by law to file an Administrative Register of Occurrence to initiate a process to determine if a killing was in self-defence or if a criminal prosecution is required. However, by initially listing the killing as an “auto de resistência”, it is automatically suggested that the death was the result of a confrontation and thus in self-defence. This practice hinders the conduct of an independent and impartial investigation that could otherwise determine whether the use of lethal force was legitimate, necessary and proportionate. “Autos de resistência” analysed by Amnesty International where there were signs of a possible extrajudicial execution invariably included statements by police officers describing a situation of confrontation with alleged criminals. This version then became the starting point of the police investigation that linked the victim to criminal gangs without conducting an independent and impartial investigation.⁵⁰

Amnesty International identified additional factors that directly hinder access to justice for unlawful killings by the police, including different treatment given by public prosecutors to killings resulting from police activity compared with the treatment given to homicides in general. Investigations into killings by the police are marked by gaps in evidence gathering, frequently impaired by alteration of crime scenes by law enforcement officials, including the removal of bodies and the planting of evidence. Moreover, judges overvalue police officers' testimonies that often describe violent confrontations and many times investigations are conducted by the same agencies involved in the killing itself.⁵¹

In 2017, Brazil passed a law transferring the jurisdiction from civilian courts to military courts for all crimes committed by armed forces personnel against civilians, including crimes against life (murder and extrajudicial executions, among others).⁵² Crimes committed by the Military Police, with the exception of unlawful killings, are under the jurisdiction of military courts.⁵³ Despite rulings by the Inter-American Court that directly ordered Brazil to refrain from using the military jurisdiction to investigate and prosecute military personnel for human rights violations and wide condemnation by multiple human rights mechanisms, the law came into force.⁵⁴ Amnesty International noted with particular concern the decision of the Homicide Division of the Civil Police to drop the investigation into the killing of seven men during a joint security operation of the Civil Police and the Army in São Gonçalo, Rio de Janeiro State, due to lack of jurisdiction of killings possibly committed by the armed forces.⁵⁵ In 2019, Military Public Prosecutors archived the

⁴⁶ Grupo de Estudos dos Novos Ilegalismos, “Chacinas Policiais no Rio de Janeiro: Estatização das mortes, mega chacinas policiais e impunidade Chacinas Policiais no Rio de Janeiro: Estatização das mortes, mega chacinas policiais e impunidade”, May 2023, available at <https://geni.uff.br/2023/05/05/chacinas-policiais-no-rio-de-janeiro-estatizacao-das-mortes-mega-chacinas-policiais-e-impunidade/>

⁴⁷ Uol, “MP pede arquivamento de 90% de mortes cometidas por policiais em SP e Rio”, 12 November 2021,

⁴⁸ Folha de São Paulo (2022), “Investigação de Massacre no Jacarezinho chega quase ao fim com 24 das 28 mortes arquivadas”, 5 May 2022, <https://www1.folha.uol.com.br/cotidiano/2022/05/investigacao-de-massacre-no-jacarezinho-rj-chega-quase-ao-fim-com-24-das-28-mortes-arquivadas.shtml>

⁴⁹ Jota (2022), “Não houve chacina alguma, diz governador”, 1 June 2022, <https://www.jota.info/stf/do-supremo/nao-houve-chacina-alguma-diz-governador-do-rj-sobre-operacao-com-ao-menos-23-mortos-01062022>

⁵⁰ Amnesty International (2015), “You killed my son: Homicide by military police in the city of Rio de Janeiro”, pp. 30-31, available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

⁵¹ Amnesty International (2015), “You killed my son: Homicide by military police in the city of Rio de Janeiro” available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

⁵² Law 13491/2017. Available at: https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2017/Lei/L13491.htm

⁵³ Amnesty International (2017), “Brazil: further information: Law leading to military impunity sanctioned”, available at <https://www.amnesty.org/en/documents/amr19/7340/2017/en/>

⁵⁴ Inter-American Commission on Human Rights (2017), “UN Human Rights and IACHR Categorically Reject Bill Expanding Jurisdiction of Military Courts in Brazil”, 13 October 2017 available at https://www.oas.org/en/iachr/media_center/PReleases/2017/160.asp

⁵⁵ Amnesty International (2017), “Seven killed during joint security operation”, Urgent Action 259/17, 30 November 2017 available at <https://www.amnesty.org/en/documents/amr19/7524/2017/en/>

investigation without pressing any charges or even determining those responsible without granting survivors, witnesses or families of victims to be heard.⁵⁶

The lack of proper investigations to prosecute and sanction those responsible for extrajudicial executions and other unlawful killings sends out a message that those deaths are permitted and tolerated by the authorities. Furthermore, the absence of effective mechanisms to protect witnesses, victims, relatives, and human rights defenders who denounce police abuses impairs investigations and feeds a cycle of increased violence.⁵⁷

RECOMMENDATIONS

- Put an end to the heavily militarized operational approach by the security forces in highly densely populated areas and impose strict controls over the use of high-powered firearms (such as rifles) and automatic weapons, particularly to avoid their use during police operations in favelas and other densely populated urban areas.
- Entirely review the heavily militarized approach for the control of illicit drugs, especially in favelas and Black communities, and shift towards an approach that puts the protection of public health and human rights at the centre, including the decriminalization of the use, possession and cultivation of drugs for personal use and an expansion of health and other social services to address the risks related to the use of drugs.
- Refrain from using military personnel, tactics and equipment to carry out ordinary policing functions, including drug enforcement operations, and ensure that civilian forces are adequately trained and equipped with various types of weapons and ammunition to allow for a differentiated use of force and firearms in accordance with the principles of necessity and proportionality.
- Restrict the use of the armed forces in the maintenance of public order only as a temporary measure in exceptionally serious circumstances in which it is impossible to rely solely on law enforcement agencies. In such exceptional circumstances, their participation must be subordinated and complementary to civilian police forces, and be regulated and supervised by civilian authorities.
- Stop using an enemy approach and terminology provided by the “war on drugs” narrative that shapes how security forces conduct their operations, often in violation of international human rights law and standards.
- Take immediate steps to tackle racism and the central role it plays in policing favelas and Black communities, including during anti-drug operations
- Investigate promptly and impartially all allegations of racial profiling and racial discrimination among law enforcement and other security forces, and implement reforms to prohibit racial profiling in the conduct of policing.
- Publicly condemn, at the highest level of government, extrajudicial executions and other unlawful killings committed in the context of police operations and send public messages that racism in police operations will no longer be tolerated.
- Guarantee that all killings resulting from police intervention – regardless of classification – are investigated as homicides, and that the changes in the terms used in the case records do not give rise to a lack of transparency and/or loss of information regarding the number of deaths caused by police.
- Amend law 13.491/2017 that transferred the jurisdiction from civilian courts to military courts for all crimes committed by military personnel against civilians, and ensure that any human rights violation committed by military personnel is investigated and prosecuted by ordinary civilian courts.
- Ensure that police external accountability and oversight mechanisms are truly independent and provided with institutional legitimacy, structure, and powers to access information and proactively review and propose changes to law enforcement policies and practices.
- Set out clearly in laws and regulations the responsibility of commanding officers and other superiors for unlawful conduct by police, including racial discrimination in the use of force and other policing tactics.

⁵⁶ El país (2019), “Chacina no rio que pos o Exército sob suspeita teve investigações arquivadas”, available at https://brasil.elpais.com/brasil/2019/04/17/politica/1555513598_215678.html

⁵⁷ Amnesty International (2015), “You killed my son: Homicide by military police in the city of Rio de Janeiro”, pp. 78-83, available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

- Provide effective protection and offer psychological support to all victims and families of victims of police abuses and guarantee the right to access to justice and adequate reparations, including compensation and commitments of non-repetition.
- Gather and make public information and statistical data about killings resulting from police intervention to be standardized at the national level and for all states to provide timely, accurate, and periodic information about the number of people killed and injured in police operations disaggregated by gender, race and other relevant markers.
- Implement a plan, in line with international law and standards on the use of force, with concrete objectives, goals and accountability measures to reduce killings by the police with the effective participation of civil society organizations, movements against anti-Black racism and other affected communities. Such initiatives must take into consideration the intersectional discrimination affecting various groups as well as regional disparities and differences between states.

WOMEN’S RIGHTS (ARTICLES 2, 6, 7, AND 18)

GENDER-BASED VIOLENCE

Despite some advances, the authorities have failed to tackle the cumulative and intersecting effects of systemic racism and gender discrimination in Brazil. High rates of femicide and sexual violence have remained constant, disproportionately affecting Black women.⁵⁸ According to Fórum Brasileiro de Segurança Pública, over 66% of femicides registered since 2019 have been Black women.⁵⁹ Black women are not only at disproportionate risk of gender-based violence and its consequences but systemic racism has also played a major role in hampering their access to protection and safety.

	2019	2020	2021
<i>Femicide</i>	1,328	1,351	1,319
	Black women: 66,6%	Black women: 61,8%	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.			

Source: Brazilian Public Security Forum/State-level Public Security Secretaries⁶⁰ and Antra⁶¹

Trans women, especially black trans women, face a disproportionate impact of gender-based violence. According to Antra (National Association of Trans and Travesties), Brazil has continuously been the country that recorded the highest number of killings of trans people, reaching at least 151 trans people killed in 2022.⁶² Of these, 76% were Black trans people. Trans women have also been discriminatorily excluded from

⁵⁸ Brazilian Public Security Forum (2019), *Violence against Black People in Brazil*, 2019, available at <https://forumseguranca.org.br/wp-content/uploads/2021/07/infografico-consistencia-negra-2019-final-ingles-site.pdf>

⁵⁹ Brazilian Public Security Forum (2021), *Violence against Women 2021*, available at <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf>

⁶⁰ Brazilian Public Security Forum (2021), *Violence against Women 2021*, available at <https://forumseguranca.org.br/wp-content/uploads/2022/03/violencia-contra-mulher-2021-v5.pdf>

⁶¹ National Association of Travestis and Transexuals (Antra) (2022), “Dossiê - Assassinatos e violências contra travestis e transexuais”, available at <https://antrabrasil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>

⁶² National Association of Travestis and Transexuals (Antra) (2023), “Dossiê assassinatos e violências contra travestis e transexuais brasileiras em 2022”, January 2023, available at <https://antrabrasil.files.wordpress.com/2023/01/dossieantra2023.pdf>

protection mechanisms due to decisions of lower courts restricting the protection under the Maria da Penha Law to women based solely on their assigned sex.⁶³ In April 2022, the Superior Court of Justice extended the application of the law for the protection of trans women.⁶⁴ In October 2022, for the first time in the country's history, two trans women were elected federal representatives although they have been the target of continuous threats and intimidation.⁶⁵

Yanomami, Guarani-Kaiowá and other Indigenous women and girls have been facing particular abuses due to the predatory actions of individuals involved in illegal mining, drug trafficking and illegal occupation of lands in their territory, including rape and femicide.⁶⁶ Indigenous groups have documented situations in which Indigenous women and girls find themselves forced to exchange sex for food.⁶⁷ Quilombola women have also been victims of femicides carried out with excessive brutality, including multiple stabbings, gas cylinder explosions, and torture.⁶⁸ The violence faced by women and girls from Indigenous and Quilombola peoples is even more serious due to insufficient availability and lack of access to protection services for victims of domestic violence.⁶⁹

Black women heading Afro-Brazilian religions are disproportionately affected by violence and discrimination based on religion, intersecting with anti-Black racism. Among other abuses, media reports have documented risks to their lives and to personal safety, destruction of worship spaces, and religious items.⁷⁰ This type of violence is mostly perpetrated by private actors, some of them linked to conservative groups close to evangelical and neo-Pentecostal religions.⁷¹ Some women have been forced to leave their places of worship or have been expelled from them.⁷²

SEXUAL AND REPRODUCTIVE RIGHTS

Since the outbreak of the Covid-19 pandemic, Brazil has registered a considerable increase in maternal mortality, increasing from 57 maternal deaths per 100,000 live births in 2019 to 107 maternal deaths per 100,000 live births in 2021, with more than 1,500 maternal deaths attributable to Covid-19.⁷³ Black women experience higher rates of maternal mortality and morbidity, which disproportionately increased during the pandemic. From February 2020 to May 2021, there were 1,114 maternal deaths of Black women, amounting to 77% more deaths compared to the maternal deaths among white women,⁷⁴ while the latest official estimation showed that Black women comprise 50% of the overall female population.⁷⁵

⁶³ Instituto Brasileiro de Direito de Família (IBDFAM) (2022), "Lei Maria da Penha deve ser aplicada em caso de violência doméstica contra mulher trans, decide STJ", 6 April 2022, 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>

⁶⁴ Supremo Tribunal do Justiça (2022), "Lei Maria da Penha é aplicável à violência contra mulher trans", 6 April 2022, available at <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>

⁶⁵ Amnesty International (2023), "Amnesty International Report 2022/2023: The state of the world's human rights", March 2023, available at <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

⁶⁶ Amnesty International (2016), "Urgent action: Guarani Kaiowa risk imminent forced eviction", available at <https://www.amnesty.org/en/wp-content/uploads/2021/05/AMR1941032016ENGLISH.pdf>

⁶⁷ Hutukara Associação Yanomami (2022), *Yanomami under attack*, April 2022, available at https://acervo.socioambiental.org/sites/default/files/documents/prov0491_0.pdf

⁶⁸ Conaq - Terra de Direitos (2017), *Racism and violence against Quilombos*, 2017, available at [https://terradedireitos.org.br/uploads/arquivos/final\)-Racismo-e-Violencia-Quilombola_CONAQ_Terra-de-Direitos_FN_WEB.pdf](https://terradedireitos.org.br/uploads/arquivos/final)-Racismo-e-Violencia-Quilombola_CONAQ_Terra-de-Direitos_FN_WEB.pdf)

⁶⁹ 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)", available at <https://agenciadenoticias.ibge.gov.br/agencia-sala-de-imprensa/2013-agencia-de-noticias/releases/25499-munic-2018- apenas-8-3-dos-municipios-tem-delegacias-especializadas-de-atendimento-a-mulher>

⁷⁰ Correio Braziliense (2019), "Religiões de matriz africana são alvos de 59 dos crimes de intolerância" 11 November 2019, available at 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

⁷¹ Data from the Religious Freedom Observatory point out that, in 56% of 47 documented 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", 22 January 2022, available at <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>

⁷² Alma Preta (2022), "RJ: mãe de santo foge de seu terreiro por conta de ameaças", 16 June 2022, available at <https://www.terra.com.br/hos/rj-mae-de-santo-foge-de-seu-terreiro-por-conta-de-ameacas.7b59b57e6f0712ba6a326a58228de890wb1ueju.html>; O Globo (2020), "Pais e mães de santo expulsos de Duque de Caxias temem novos ataques de traficantes e milicianos", 11 August 2020, available at <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>

⁷³ Damiao Soares Tenorio *et. al.* (2022), "High maternal mortality rates in Brazil: Inequalities and the struggle for justice", 3 August 2022, available at [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)

⁷⁴ Criola (2021), "Criola alerta sobre o aumento da mortalidade materna em todo o país, agravada pela Covid-19" 25 May 2021, available at <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/>

⁷⁵ Institute for Applied Economic Research (2013), *Black Women Dossier*, available at https://www.ipea.gov.br/guuldaderacial/index.php?option=com_content&view=article&id=735

Abortion is still a crime in Brazil except in cases of risk to a woman's life; when the pregnancy is the result of rape; and if the fetus is anencephalic.⁷⁶ Even in these cases, Brazil has seen a crisis in the provision of lawful abortion services, further aggravated by the Covid-19 pandemic that halted many services.⁷⁷ In 2020, the Ministry of Health amended Ordinance No. 2.282/2020 and updated the procedures for the legal termination of pregnancy despite wide criticism of health professionals that argued against bringing provisions that would reinforce police surveillance of pregnant people seeking abortion that would deter them from accessing lawful abortion services.⁷⁸

POLICE ABUSES IN THE CONTEXT OF THE “WAR ON DRUGS”

As the participation of women in the drug trade has risen in some communities, they are facing increased risks and abuses due to the complex and unequal relationship between men that control the drug trade and women who usually take low ranking positions.⁷⁹ Women have also faced specific and differentiated abuses committed by police and other security forces in the context of the “war on drugs”, including sexual violence and other forms of torture. In 2017, the Inter-American Court found Brazil to also be responsible in the case of Favela Nova Brasília for the use of sexual violence by the police against three young women.⁸⁰

Mothers and other female relatives of victims of extrajudicial executions and other police abuses have also carried the burden when trying to seek justice and reparations for these violations, facing severe negative effects on their physical and mental health.⁸¹ Victims and their families have reported numerous obstacles in accessing information about the progress of investigations regarding police abuses and unlawful killings without support from the State.⁸²

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 police abuses. These women safeguard the survival of their communities and are at the frontline of the struggle for human rights. Many women whose relatives have been killed by the police have also been stigmatized, harassed or threatened for fighting to preserve the memory of their loved ones, often tarnished by official narratives which would deem them as criminals.⁸³ Long-term closures of schools, businesses, and health clinics during police operations have had a huge impact on women who are generally responsible for the care work, that tend to reinforce historical patterns of social exclusion.⁸⁴

WOMEN DEPRIVED OF THEIR LIBERTY

Women have been disproportionately affected by criminal drug law enforcement, facing increased risks as their participation in the drug trade has been on the rise especially among women who lack education and economic opportunities or that have been victims of abuse.⁸⁵ While fewer women are incarcerated than men, the number of women in detention is increasing at an alarming rate due to the more visible and risky positions women often take in criminal organizations.

Across Brazil, nearly 37.000 women were deprived of their liberty in 2020 and reached more than 45.000 in 2021.⁸⁶ Most women have been detained for drug-related offences, especially drug trafficking, in many cases after the discriminatory application of Law No. 11,343/2006 that defined drug possession for personal use as a crime but one not to be punished with imprisonment. As a result, many women used as couriers to

⁷⁶ Código Penal (1940), Decreto-Lei No 2.848, Parte Especial, Título I, Capítulo I, Artigos 124- 128.

⁷⁷ Folha de São Paulo (2021), “Pandemia aprofunda a crise em serviços de aborto legal e profissionais buscam saídas”, 6 March 2021, available at <https://www1.folha.uol.com.br/cotidiano/2021/03/pandemia-aprofunda-crise-em-servicos-de-aborto-legal-e-profissionais-buscam-saidas.shtml>

⁷⁸ Brazilian Society for Family and Community Medicine (2020), “Posicionamento sobre a Portaria do Ministério da Saúde no 2.282 de 27/8/2020”, 27 August 2020, available at <https://www.sbfmc.org.br/noticias/posicionamento-sobre-a-portaria-do-ministerio-da-saude-no-2-282-de-27-8-2020/>

⁷⁹ Amnesty International, “Picking up the pieces: Women’s experiences of urban violence in Brazil” (AMR 19/001/2008), 17 April 2008

⁸⁰ Inter-American Court of Human Rights, *Favela Nova Brasília v. Brazil*, 16 February 2017

⁸¹ Folha de São Paulo (2019), “Mães que tiveram filhos mortos pela polícia temem que o mesmo ocorra aos que estão vivos”, 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>

⁸² Intercept (2018), “As mães que tiveram seus filhos assassinados pelo Estado decidiram fazer o trabalho da polícia: investigar”, 13 May 2018, available at <https://www.intercept.com.br/2018/05/13/maes-com-filhos-assassinados-pelo-estado/>

⁸³ Amnesty International (2015), “You killed my son: Homicide by military police in the city of Rio de Janeiro”, pp. 78-83, available at <https://www.amnesty.org/en/documents/amr19/2068/2015/en>

⁸⁴ Amnesty International (2008), “The Police only come to collect the bodies”, 17 April 2008, available at <https://www.amnesty.org/en/documents/amr19/003/2008/en/>

⁸⁵ UNODC (2018), *World Drug Report 2018: Women and Drugs*, June 2018, available at https://www.unodc.org/wdr2018/prelaunch/WDR18_Booklet_5_WOMEN.pdf; UN Women (2014), “A Gender Perspective on the Impact of Drug Use, the Drug Trade and Drug Control Regimes (policy brief)”, July 2014, available at https://www.hr-dp.org/files/2014/12/02/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf

⁸⁶ Brazilian Public Security Forum (2022), *Brazilian Public Security Yearbook 2022*, available at <https://forumseguranca.org.br/wp-content/uploads/2022/06/anoario-2022.pdf?v=5>

distribute small amounts of drugs are given longer sentences comparable to those handed down for drug trafficking.⁸⁷

According to the Ministry of Justice, 3 out of 5 women in detention were charged with drug trafficking,⁸⁸ while 60% of the total female prison population are Black women.⁸⁹ While the female prison population only represents about 6% of the total, women represent 11% of all prisoners incarcerated for drug-related offences.⁹⁰ According to experts, this disparity stems from selective strategies of law enforcement and institutional incentives for keeping people in detention.⁹¹

According to the National Penitentiary Department, more than 12.000 women deprived of their liberty are mothers of children up to 12 years old.⁹² Civil society groups have reported that 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. 13,769/2018.⁹³ Moreover, half of all Brazilian prisons have no medical facilities equipped for providing adequate services and the rest lack medical staff.⁹⁴

RECOMMENDATIONS

- Take urgent measures to prevent, investigate and prosecute domestic violence and femicides of Black women and girls, paying particular attention to the situation of Black trans women.
- Incorporate actions to combat racism and transphobia into the plans, programmes, and policies regarding violence against women, taking into account the specific needs of Black women, paying particular 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, including trans women, without discrimination.
- Provide effective 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.
- Remove abortion from the Penal Code and stop punishing women, girls and all pregnant people, healthcare providers and others for obtaining, assisting with, or providing abortion services.
- Grant universal access to safe abortion, as early as possible and as late as necessary, and for provision of post-abortion care and evidence-based abortion-related information.
- Establish policies for victims of human rights abuses and their families that ensure timely and effective support regardless of judicial decisions, including mental health, protection services and legal representation.
- Take urgent steps to revise anti-drug laws, particularly Law No 11,343/2006, and establish alternatives to the criminalization of minor non-violent drug-related offences that do not cause harm to others.
- Provide alternatives to incarceration for pregnant women, women with children or caregivers, including during pretrial detention. Ensure that Black women are not discriminated against in the provision of these measures.

⁸⁷ Amnesty International, "Picking up the pieces: Women's experiences of urban violence in Brazil" (AMR 19/001/2008), 17 April 2008

⁸⁸ Departamento Penitenciário Nacional (2018), *Levantamento Nacional de informações penitenciárias INFOPEN Mulheres*, 2018, available at https://conectas.org/wp-content/uploads/2018/05/infopenmulheres_arte_07-03-18-1.pdf

⁸⁹ Departamento Penitenciário Nacional (2018), *Levantamento Nacional de informações penitenciárias INFOPEN Mulheres*, 2018, available at https://conectas.org/wp-content/uploads/2018/05/infopenmulheres_arte_07-03-18-1.pdf

⁹⁰ Machado, MR, et al. 2019. "Incarcerating at Any Cost: Drug Trafficking and Imprisonment in Brazilian Court Reasoning", *Journal of Illicit Economies and Development*, 1(2), pp. 226–237

⁹¹ Machado, MR, et al. 2019. "Incarcerating at Any Cost: Drug Trafficking and Imprisonment in Brazilian Court Reasoning", *Journal of Illicit Economies and Development*, 1(2), pp. 226–237

⁹² See compiled data of pregnant women, women with children, elderly or sick from the National Penitentiary Department (2020). Available http://www.susepe.rs.gov.br/upload/1588195416_SEI_MJ11429916Informao_final.pdf

⁹³ Instituto Terra, Trabalho e Cidadania (2021), *Implementação da prisão domiciliar para mulheres no Brasil na luz da lei de acesso a informação*, 2021, available at <https://ponte.org/wp-content/uploads/2021/12/Relatorio-LAI.pdf>

⁹⁴ Penal Reform International (2021), "Global Report Prison Trends 2021", May 2021, available at <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>

- 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 marginalized communities so that they can live their lives and access public services without fear of violence or discrimination.

SHRINKING SPACE FOR CIVIL SOCIETY AND HUMAN RIGHTS DEFENDERS (ARTICLES 19, 21, AND 22)

The space for civil society organizations has shrunk alarmingly and the threats and challenges faced by human rights defenders have increased over the last years.⁹⁵ According to the UN Special Rapporteur on the situation of human rights defenders, Brazil was among the top countries where human rights defenders were killed between 2015 and 2019.⁹⁶ Global Witness has documented that Brazil was among the countries in the world where most environmental rights defenders were killed in 2021.⁹⁷ According to the Comissão Pastoral da Terra, in 2022 there was one conflict involving the right to land every four hours that resulted in 47 people killed and 206 death threats.⁹⁸

The notorious killing in 2018 of Marielle Franco and her driver Anderson Gomes has highlighted the obstacles faced by human rights defenders in accessing justice and reparations.⁹⁹ Thus far, two men have been charged with carrying out the killing but four years after the attack the authorities have failed to establish who ordered the killings.¹⁰⁰ In June 2022, British journalist Dom Phillips and Brazilian Indigenous expert Bruno Pereira, defenders of the rights of Indigenous peoples, were disappeared in a region near the Vale do Javari Indigenous lands in Amazonas state and their bodies were found 11 days later. Three men have been arrested on charges of murder and concealing the bodies, but the authorities have not yet identified the intellectual authors.¹⁰¹

Amnesty International also noted a concerning trend towards the unlawful surveillance, harassment, and unjust investigations against leaders of social movements, government critics, Indigenous leaders, and political opponents.¹⁰² The Articulation of Indigenous Peoples of Brazil has denounced the techniques of persecution and criminalization used to silence Indigenous leaders, including arrest, coercive warrants, home invasion, stalking, online threats, exposure of family members, harassment, and criminalization.¹⁰³ Moreover, the National Congress has been considering over ten bills that would increase surveillance and other intrusive policing tactics of human rights defenders under the guise of national security and broad definitions of “terrorism” that would criminalize social movements.¹⁰⁴ According to media reports,

⁹⁵ Terra de direitos e Justiça Global (2021), “Começo do fim?: O pior momento do Programa de Proteção aos Defensores de Direitos Humanos, Comunicadores e Ambientalistas”, December 2021, available at <https://terradedireitos.org.br/uploads/arquivos/Relatorio---Comeco-do-Fim.pdf>

⁹⁶ Special Rapporteur on human rights defenders (2020), “Final warning: death threats and killings of human rights defenders”, UN Doc. A/HRC/46/35, 24 December 2020, available at <https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CFI-killings-human-rights-defenders.aspx>

⁹⁷ Global Witness (2022), “Decade of defiance: Ten years of reporting land and environmental activism worldwide”, September 2022 available at <https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/>

⁹⁸ Rede Brasil Atual, “Número de assassinatos no campo cresceu 30% em 2022, aponta Comissão Pastoral da Terra”, 17 April 2023, available at <https://www.redebrasilatual.com.br/cidadania/relatorio-conflitos-no-campo-mostra-assassinatos-crescem-30-em-2022-diz-comissao-pastoral-da-terra/>

⁹⁹ Amnesty International (2019), “Authorities must clarify alarming reports over killing of Marielle Franco”, 30 October 2019 available at <https://www.amnesty.org/en/latest/news/2019/10/brazil-authorities-must-clarify-alarming-reports-marielle-franco-2/>

¹⁰⁰ Amnesty International (2023), “Brazil: five years without Marielle Franco and Anderson Gomes”, available at <https://www.amnesty.ca/human-rights-news/brazil-five-years-without-marielle-and-anderson/>

¹⁰¹ Amnesty International (2022), “Environmental defenders murdered”, Urgent Action 54/22, 16 June 2022, available at <https://www.amnesty.org/en/documents/amr19/5719/2022/en/>

¹⁰² Amnesty International Brazil (2020), “Governo Brasileiro, ao monitorar e vigiar ONGs e movimentos sociais, comete graves violações de direitos humanos, alerta Anistia Internacional”, 17 October 2020, available at <https://anistia.org.br/informe/governo-brasileiro-ao-monitorar-e-vigiar-ong-e-movimentos-sociais-comete-graves-violacoes-de-direitos-humanos-alerta-anistia-internacional/>; Amnesty International Brazil (2020), “Anistia Internacional exige o fim de investigações sigilosas contra críticos do governo federal”, 27 July 2020, available at <https://anistia.org.br/informe/anistia-internacional-exige-o-fim-de-investigacoes-sigilosas-contr-criticos-do-governo-federal/>

¹⁰³ Indigenous Peoples Rights International (2021). “An anatomy of practices for silencing indigenous leaders”, April 2021, available at <https://apiboficial.org/files/2021/05/UMA-ANATOMIA-DAS-PRA%CC%81TICAS-DE-SILENCIAMENTO-INDI%CC%81GENA-1.pdf>

¹⁰⁴ Bill No 1600/2015; Bill No 6788/2013; Bill No 179/2003; Bill No 272/2016; Bill No 5065/2016; Bill No PL 5964/2013; Bill No 6198/2013; Bill No 1768/2011; Bill No 5952/2013; Bill No 6268/2009; Bill No 1595 See also Special Procedures Communication to Brazil on Anti-terrorists Bill of Laws, 15 June 2021, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26450>

investigations opened by the Federal Police against critical voices and based on the National Security Law increased by 285% since 2019.¹⁰⁵

Despite initial attempts to establish a mechanism for the protection of human rights defenders at risk, the authorities have failed to implement an adequate public policy in this regard. The current Program for the Protection of Human Rights Defenders, Communicators and Environmentalists (PPDDH), established by Decrees 6044/07 and 9937/19, is not supported by a law that guarantees the institutionalization of the policy.¹⁰⁶ Moreover, the Program has not yet managed to minimally develop a comprehensive policy of protection that includes gender and racial perspectives and the needs of groups and collectives; and has failed to ensure the implementation of state-level protection programs.¹⁰⁷

RECOMMENDATIONS

- Review the human rights defenders' protection program and its regulations to ensure wider participation of civil society and guarantee that protection measures are comprehensive, including individual and collective needs, as well as gender and racial perspectives.
- Ensure that threats and attacks against human rights defenders are promptly, thoroughly, independently and impartially investigated, and that all those responsible are brought to justice in fair trials.
- Explicitly recognize the legitimacy of human rights defenders and publicly support their work by acknowledging their contribution to the advancement of human rights and carrying out public awareness campaigns.
- Abstain from the unlawful surveillance used to intimidate, harass, and discredit human rights defenders, particularly those working on issues related to anti-racism.

INDIGENOUS, QUILOMBOLA AND OTHER TRADITIONAL PEOPLES (ARTICLES 2, 6, 26 AND 27)

The lack of effective policies to allow for land demarcation of Indigenous and Quilombola territories has led to an alarming growth of conflicts, land invasions and uncontrolled killings and attacks against traditional peoples.¹⁰⁸ In 2021 alone, the Comissão Pastoral da Terra registered 35 killings as a result of land disputes, 110 people were arrested and 2,143 rural families were evicted.¹⁰⁹ According to this data, more than 50% of all registered land disputes were concentrated in the Amazon region. The number of cases of Indigenous lands affected by illegal mining, logging, hunting, and fishing was highest in 2021 when the Indigenous Missionary Council registered 176 killings of Indigenous people, 305 cases of possessory invasions, illegal exploitation of resources, and damage to property affecting at least 226 Indigenous lands in 22 Brazilian states.¹¹⁰

¹⁰⁵ Estadão (2021), "Inqueritos da PF com base na lei de segurança nacional crescem 285% no governo Bolsonaro", 19 March 2021, available at <https://politica.estadao.com.br/noticias/geral,inqueritos-da-pf-com-base-na-lei-de-seguranca-nacional-crescem-285-no-governo-bolsonaro,70003652910>

¹⁰⁶ Amnesty International (2018), "Americas: The Situation of State Protection Mechanisms for Human Rights Defenders", 3 October 2018, available at <https://www.amnesty.org/en/documents/amr01/8912/2018/en/>

¹⁰⁷ Terra de direitos e Justiça Global (2021), "Começo do fim? O pior momento do Programa de Defensores de Direitos Humanos, 2021", December 2021, available at <https://terradedireitos.org.br/uploads/arquivos/Relatorio---Comeco-do-Fim.pdf>

¹⁰⁸ Indigenous Missionary Council (2020), "Violence against Indigenous Peoples in Brazil. 2020 Data", available at https://cimi.org.br/wp-content/uploads/2022/01/report-violence-against-the-indigenous-peoples-in-brazil_2020-cimi.pdf; Brazilian Association of Investigative Journalism and NGO Brazil Transparency (2021), "Direito a terra quilombola em risco: Reconhecimento de territórios tem baixa histórica no governo Bolsonaro", April 2021, available at https://www.achadosepedidos.org.br/uploads/publicacoes/Terra_Quilombola.pdf; Folha de São Paulo, "Governo Bolsonaro tituló só três quilombos mesmo sob pressão da justiça", available at <https://www1.folha.uol.com.br/cotidiano/2021/08/governo-bolsonaro-titulo-so-tres-quilombos-mesmo-sob-pressao-da-justica.shtml>

¹⁰⁹ Comissão Pastoral da Terra (2022), "Deaths as a result of conflict and massacre in the Yanomami Indigenous Land increase in murders and slave labor mark the year 2021", available at <https://www.cptnacional.org.br/downloads?task=download.send&id=14267&catid=90&m=0>

¹¹⁰ Indigenous Missionary Council (2022), "Violence against Indigenous People Annual Report, 2022" available at <https://cimi.org.br/2022/08/cimi-violence-against-indigenous-peoples-report-2021/>

From 2016 to 2022, the government suspended the process to demarcate Indigenous lands.¹¹¹ Land demarcations only resumed in 2023 after the creation of the Ministry for Indigenous Peoples, which has been tasked with restructuring a policy of land demarcation after years of policies undermining the rights of Indigenous peoples.¹¹² Between 2019 and 2022, 45% of the budget allocated to protect and demarcate Indigenous lands was spent on compensation and land purchase – a measure that benefits non-Indigenous tenants.¹¹³ The titling of Quilombolas land has been moving at a very slow pace over the years and it is estimated it would take a thousand years to complete at the current pace.¹¹⁴

Traditional communities have been humiliated, persecuted, and hindered in their ability to gather and organize in order to build up autonomous decision-making processes and have access to full and detailed information on proposed projects that undermines their right to free, prior and informed consent. In 2020, the Federal Public Prosecutor's Office accused the federal government of coercing the Munduruku 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.¹¹⁵

The Inter-American Commission on Human Rights has repeatedly expressed concern over the lack of free, prior and informed consent of Indigenous and Quilombola peoples when authorities have put in place several policies and programmes, including large-scale development or investment projects in their lands, in contravention of ILO Convention 169.¹¹⁶

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 and titling processes.
- 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 “regularize” predatory actions in Indigenous and Quilombola lands, as well as any other bills that weaken the legal protection of Indigenous and Quilombola territories, reserves, and other environmentally protected areas.

¹¹¹ Indigenous Missionary Council (2022), “Violence against Indigenous People Annual Report, 2022” available at <https://cimi.org.br/2022/08/cimi-violence-against-indigenous-peoples-report-2021/>

¹¹² INESC (2022), “Fundação Anti-indígena: um retrato da Funai sob o governo Bolsonaro”, 13 June 2022, available at <https://www.inesc.org.br/fundacao-anti-indigena-um-retrato-da-funai-sob-o-governo-bolsonaro/>

¹¹³ Institute for Socioeconomic Studies (2022), “Budget allocation reveals widespread dismantling of social policies”, 11 April 2022, available at <https://www.inesc.org.br/balanco-do-orcamento-2019-2021-revela-desmonte-generalizado-de-politicas-sociais-diz-inesc/>

¹¹⁴ Conaq and Terra de Direitos (2019), “No atual ritmo, o Brasil levará mil anos para titular todas as comunidades quilombolas”, 19 February 2019, <https://terradedireitos.org.br/noticias/noticias/no-atual-ritmo-brasil-levara-mil-anos-para-titular-todas-as-comunidadesquilombolas/23023>

¹¹⁵ Globo (2020), “MPF diz que governo federal tenta aliciar indígenas em processo de licenciamento da Ferrogrão”, 17 December 2020, available at <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>

¹¹⁶ Inter-American Commission on Human Rights (2021), “Situation of human rights in Brazil”, 12 February 2021, available at <https://www.oas.org/en/iachr/reports/pdfs/Brasil2021-en.pdf>

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BRAZIL

SUBMISSION TO THE HUMAN RIGHTS COMMITTEE

138TH SESSION, 26 JUN 2023 - 28 JUL 2023

Amnesty International submits the following information to the UN Human Rights Committee ahead of the third periodic report of Brazil at the Committee's 138th session in June 2023.

The submission sets out Amnesty International's concerns and recommendations regarding the implementation of the International Covenant on Civil and Political Rights (the Covenant) by the government of Brazil. It highlights Brazil's failure to address extrajudicial executions and other violations committed in the context of policing and the "war on drugs", including its disproportionate and discriminatory impact on Black people. It further expresses concern over the authorities' failure to tackle the cumulative and intersecting effects of systemic racism and gender discrimination, which are driving instances of gender-based violence and other violations of women's rights that disproportionately affect Black women. Then, the submission addresses problems related to the shrinking space for civil society organizations and human rights defenders. Lastly, it raises concern over the situation of Indigenous, Quilombola, and other traditional peoples, including concerns about violence related to land disputes with worrying numbers of threats and attacks against Indigenous and Quilombola peoples.

This submission is not an exhaustive account of Amnesty International's concerns related to Brazil's implementation of the Covenant.