



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of Brazil*

1. The Committee considered the third periodic report of Brazil¹ at its 3995th and 3996th meetings,² held on 26 and 27 June 2023. At its 4028th meeting, held on 20 July 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Brazil, albeit more than 10 years late, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies³ to the list of issues,⁴ which were supplemented by the oral responses provided by the delegation, and for the additional information provided in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and policy measures undertaken by the State party:

(a) Adoption of decree 11,443/2023 on quotas for people of African descent in the federal public administration;

(b) Establishment of the Ministry of Indigenous Peoples and the Ministry of Racial Equality, in 2023;

(c) Launch of the Mandela Project, which is aimed at promoting the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), in 2023;

(d) Adoption of Law No. 14,192/2021 on combating political violence against women;

(e) Adoption of the national policy for finding disappeared persons and the creation of the national register of disappeared persons, in 2019;

(f) Adoption of the guidelines for the judiciary on dealing with cases involving Indigenous Peoples in conflict with the law, in 2019;

* Adopted by the Committee at its 138th session (26 June–26 July 2023).

¹ [CCPR/C/BRA/3](#).

² See [CCPR/C/SR.3995](#) and [CCPR/C/SR.3996](#).

³ [CCPR/C/BRA/RQ/3](#).

⁴ [CCPR/C/BRA/Q/3](#).



- (g) Adoption of Law No. 13,445/2017 on migration;
- (h) Adoption of the Federal Pact for Preventing and Combating Torture, in 2017;
- (i) Adoption of the national policy on alternative penalties, in 2016;
- (j) Adoption of Law No. 13,104/2015 on femicide;
- (k) Adoption of the national policy on comprehensive care in prisons, in 2014;
- (l) Release of the final report of the National Truth Commission, in 2014;
- (m) Adoption of Law No. 12,846/2013 (Clean Companies Act);
- (n) Establishment of the National System to Prevent and Combat Torture, in 2013;
- (o) Adoption of the National Pact to Combat Violence against Women, in 2011;
- (p) Adoption of Law No. 12,288/2010 on racial equality;
- (q) Adoption of Law No. 11,340/2006 (Maria da Penha Law) on combating domestic violence.

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), on 31 January 2018;
- (b) Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 29 September 2017;
- (c) International Convention for the Protection of All Persons from Enforced Disappearance, on 29 November 2010;
- (d) Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 25 September 2009;
- (e) Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, on 1 August 2008;
- (f) Convention on the Reduction of Statelessness, on 25 October 2007;
- (g) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 12 January 2007.

C. Principal matters of concern and recommendations

Implementation of the Covenant and the Optional Protocol thereto

5. The Committee is concerned about the lack of information on efforts to raise awareness among law enforcement officers, the security forces, civil society actors and members of the general public about the Covenant, the Optional Protocols thereto and their applicability in domestic law, and the absence of legislation to reinforce the domestic application of the Covenant and the Committee's recommendations and Views and of a national mechanism to monitor their implementation (art. 2).

6. **The State party should ensure the implementation of the recommendations contained in the concluding observations and Views adopted by the Committee, including through domestic courts, so as to guarantee the right of victims to an effective remedy. It should consider adopting legislation recognizing the right of authors of communications to whom the Committee has granted any measure of reparation to demand before the domestic courts the implementation of such measures. It should provide specific training on the Covenant to government officials, members of the security forces and law enforcement officers. It should also consider establishing a national mechanism to monitor the implementation of the recommendations and Views of the Committee.**

National human rights institution

7. While acknowledging the information provided by the State party regarding the support for establishing an independent national human rights institution, the Committee regrets the lack of clear progress made towards establishing such an institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

8. The Committee calls upon the State party to undertake the measures necessary to establish an independent national human rights institution in accordance with the Paris Principles, as a matter of priority, and to allocate adequate financial and human resources to the institution.

Anti-corruption measures

9. While noting the measures adopted to combat corruption, including the adoption of Law No. 12,846/2013 (Clean Companies Act), the Committee is concerned about the lack of effective enforcement, as well as the delays in proceedings and the judicial backlog (arts. 2 and 25). While acknowledging the information received on the results of the Lava Jato operation, an important corruption case that affected the public sector and institutions throughout the country, the Committee is concerned by the long delays in the judicial proceedings. The Committee regrets the scarce information received on the outcome of the national strategy for combating bribery and money laundering and the strategy's effectiveness in the fight against corruption.

10. The State party should:

(a) **Increase its efforts to eradicate corruption and impunity at all levels and ensure the effective implementation of legislation and preventive measures to combat corruption and that all cases are promptly and duly tried and perpetrators punished in a manner commensurate with the gravity of their crimes;**

(b) **Ensure the prompt finalization of all judicial procedures related to the Lava Jato operation so that final judgments are pronounced in due time;**

(c) **Reinforce the national strategy for combating bribery and money laundering.**

Fight against impunity and past human rights violations

11. The Committee notes with concern the lack of implementation of recommendations contained in the report of the National Truth Commission, including to provide for adequate redress for victims and accountability of the perpetrators. The Committee welcomes the commitment made by the State party during the dialogue to implement the Commission's recommendations. The Committee regrets the absence of an adequate investigation regarding the violations of rights, including the rights of Indigenous Peoples during the dictatorship, including forced displacement from their traditional lands. The Committee is also concerned about the lack of compatibility of the Amnesty Law of 1979 with the provisions of the Covenant (arts. 2, 6, 7 and 14).

12. The State party should:

(a) **Step up its efforts to ensure the full and effective implementation of the recommendations of the National Truth Commission;**

(b) **Investigate allegations of human rights abuses committed between 1946 and 1988, including against Indigenous Peoples and other minorities, prosecute the perpetrators, and, if they are convicted, impose appropriate penalties on them, and ensure access to effective remedies for victims;**

(c) **Consider reviewing the Amnesty Law of 1979 to ensure its conformity with the Covenant.**

Non-discrimination

13. The Committee is concerned by reports of deep-rooted and widespread discrimination and high levels of harassment and violence on the basis of race, ethnicity, gender, gender identity, sexual orientation, indigeneity and socioeconomic and other status. The Committee is also concerned by the lack of accountability for these human rights violations and attacks and the lack of data collection relating to them. While the Committee takes note of legislative provisions and policy measures addressing specific groups or forms of discrimination, it regrets the lack of comprehensive anti-discrimination legislation addressing all forms of discrimination. The Committee also notes with concern the gap in antiracism legislation and the lack of legislation recognizing sexual orientation and gender identity as forbidden grounds for discrimination (arts. 2, 19, 20 and 26).

14. **The State party should:**

(a) **Provide effective protection against all forms of discrimination and ensure that no such discrimination or violence is tolerated and that such conduct is properly addressed and remedied;**

(b) **Adopt a comprehensive legislative and policy framework prohibiting discrimination, including intersectional, direct and indirect discrimination, in all spheres, both public and private, and on all the grounds prohibited under the Covenant;**

(c) **Adopt dedicated legislation on discrimination based on sexual orientation and gender identity;**

(d) **Ensure the continuity and effectiveness of anti-discrimination initiatives at the institutional level, as well as comprehensive awareness-raising campaigns, to address stigma, negative stereotypes and discriminatory attitudes and to promote respect for diversity among the general public.**

Hate speech

15. While welcoming the commitment of the State party to combating hate speech, including the recent creation of a Working Group on Strategies to Combat Hate Speech and Extremism, the Committee is concerned by the increasing levels of hate speech, especially online, based in particular on race, ethnicity, gender, sexual orientation and Indigenous status, even by high-level authorities. The Committee regrets the lack of an adequate and effective legal framework to prevent and punish hate speech and the fact that it is not explicitly criminalized (arts. 2, 19, 20 and 26).

16. **The State party should strengthen its efforts, through both law enforcement and awareness-raising activities, to combat hate speech and incitement to discrimination or violence, in accordance with articles 19 and 20 of the Covenant and the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should:**

(a) **Explicitly criminalize acts of hate speech on all prohibited grounds under the Covenant, including race, gender, sexual orientation and gender identity, and consider reviewing its legislation to adopt the measures necessary to fight effectively against it;**

(b) **Take effective measures to prevent and combat hate speech, including online, and publicly condemn it;**

(c) **Ensure that all cases of hate speech are investigated thoroughly and suspected perpetrators prosecuted, and, if convicted, punished, and provide victims with adequate remedies;**

(d) **Provide adequate training to law enforcement officials, judges and prosecutors on addressing hate speech and hate crimes.**

Gender equality

17. While welcoming measures adopted to promote gender equality, the Committee remains concerned about the low levels of participation of women, in particular women belonging to marginalized groups, such as women of African descent, Quilombola, Roma

and Indigenous women and lesbian, bisexual and transgender women, in the political, judicial and other public sectors. The Committee is also concerned that, while a quota system has been introduced to improve the political representation of women, the quota is not being effectively implemented (arts. 3 and 26).

18. The State party should strengthen its efforts to guarantee gender equality in all spheres of life. In particular, it should:

(a) **Take measures to achieve the full and equal participation of women in public life, in particular in decision-making positions, if necessary through appropriate temporary special measures;**

(b) **Allocate sufficient and sustainable financial and human resources for the implementation of gender equality programmes and ensure an effective use of resources;**

(c) **Ensure cooperation and coordination among governmental institutions at the national, regional and local levels, in order to mainstream gender equality into all policy areas, taking an intersectional approach.**

States of emergency

19. The Committee is concerned about reports indicating that measures taken by the State party to control the coronavirus disease (COVID-19) pandemic had a disproportionate impact on the enjoyment of certain Covenant rights, such as the rights to life, freedom from arbitrary detention, freedom of movement and fair trial (art. 4).

20. The State party should guarantee that any measure introduced to protect the population in the context of a state of emergency, including a pandemic, is in compliance with the Covenant, as interpreted in the Committee’s general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency and the Committee’s statement on derogations in connection with the COVID-19 pandemic,⁵ and is temporary, proportionate, strictly necessary and subject to judicial review.

Counter-terrorism measures

21. The Committee is concerned with the proposed amendments to anti-terrorism legislation, in particular Senate draft bill No. 272/2016 and Congress draft bill No. 1595/2019, which use vague and overbroad terms, significantly expanding the definition of “terrorism” and “terrorist acts”, restrict the exercise of fundamental rights and freedoms, risk criminalizing the defence of human rights by civil society and introduce clauses limiting the accountability of counterterrorism agencies (arts. 2, 4, 7, 9 and 14).

22. The State party should ensure that its counter-terrorism legislation is in full conformity with the Covenant, in particular with regard to the definition of terrorism and terrorist acts and the powers and limits on their exercise. It should also adopt effective safeguards and preventive measures to ensure that the application of the anti-terrorism legislation does not unduly restrict any rights under the Covenant, and it should ensure accountability for perpetrators of human rights violations.

Violence against women, including domestic violence

23. While taking note of the measures adopted by the State party, including Law No. 13,104/2015 on femicide, the National Pact to Combat Violence against Women of 2011 and Law No. 11340/2006 (Maria da Penha Law), the Committee is concerned by reports about the continuous high levels of femicide and violence against women, in particular women of African descent and Quilombola women. The Committee is also concerned that many women do not report such violence or seek assistance. The Committee regrets the lack of a comprehensive gender-based violence law, the insufficient and inadequate protection and assistance services and the lack of culturally sensitive policies to address violence against Indigenous women and women of African descent. The Committee is very concerned about

⁵ [CCPR/C/128/2](#).

the continuous use of the Parental Alienation Law (No. 12,318/2010) to remove a mother's custody of her children. (arts. 2, 3, 6, 7 and 26).

24. The State party should:

(a) **Adopt a comprehensive law on gender-based violence with a view to preventing, combating and punishing all forms of violence against women and girls in both the public and private spheres, including targeted protection measures for women of African descent and Quilombola women, ensure the effective implementation of the existing legislation and its compliance with the Covenant, adopt culturally appropriate policies for Indigenous women and women of African descent and consider revising the Parental Alienation Law (No. 12,318/2010);**

(b) **Ensure that all cases of violence against women, including domestic violence, are thoroughly investigated, the perpetrators are prosecuted, and, if convicted, punished, and that victims have access to remedies and means of protection, including in rural and remote areas;**

(c) **Establish an effective mechanism to facilitate and encourage women and girls who are victims of violence, including domestic violence, to report cases to the police and raise awareness about the criminal nature of such acts in order to overcome underreporting;**

(d) **Allocate resources to expand the network of shelters and other support services to specialized units for women at police stations and hospitals all over the country and to train law enforcement officers, judges and prosecutors to handle gender-based violence cases.**

Voluntary termination of pregnancy and reproductive rights

25. The Committee notes that article 128 of the Penal Code does not criminalize abortion performed by a doctor when there is no other means of saving the life of the pregnant woman or when the pregnancy is the result of rape. In the context of the Zika virus disease pandemic, the Supreme Court also decided that there was no crime in interrupting a pregnancy in cases of foetal anencephaly. The Committee is concerned however by reports that pregnant women and girls who have a legal right to abortion cannot always enjoy that right in practice, because of fear of prosecution, denial of access to hospitals and a hostile environment, including in rural areas, among other reasons (arts. 6 and 7).

26. Bearing in mind paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, the State party should:

(a) **Amend its legislation to guarantee safe, legal and effective access to abortion, including in rural and remote areas, where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable;**

(b) **Repeal the laws that impose criminal punishment upon women and girls who undergo legal abortions and upon physicians assisting them;**

(c) **Ensure unimpeded access to sexual and reproductive health services and to sexual and reproductive health education, including with a view to preventing unintended pregnancies and to effectively combating the stigmatization of women and girls who have recourse to abortion, in urban areas and in particular in rural areas.**

Right to life

27. While the Committee takes note of Law No. 13,060/2014 which regulates the use of less offensive instruments by public security agents, it is concerned by the numerous reports indicating that the use of lethal force by police and security personnel has remained excessively high for more than a decade, affecting disproportionately young people of African descent and lesbian, gay, bisexual and transgender persons. The Committee is also concerned that, despite the Supreme Court prohibition on police raids in low-income neighbourhoods in Rio de Janeiro during the COVID-19 pandemic, except in "absolutely

exceptional cases”, a police operation in Jacarezinho favela in 2021 resulted in the death of 27 residents (art. 6).

28. **Bearing in mind the Committee’s general comment No. 36 (2018), the State party should take all measures necessary to prevent the excessive use of force during law enforcement operations, and in particular it should:**

(a) **Ensure that the domestic legislation and operational procedures governing the use of force and firearms by law enforcement officials are in full conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;**

(b) **Ensure that all law enforcement officers systematically receive training on the use of force based on the Basic Principles and the Guidance and ensure that the principles of legality, necessity and proportionality are strictly adhered to in practice.**

29. The Committee is concerned by the high mortality rates from the virus that causes COVID-19, affecting in particular on individuals of African descent, pregnant women, Indigenous peoples and Quilombola communities and people deprived of their liberty, among others, and by reports about negligence in the handling of the pandemic, lack of adequate measures to prevent avoidable deaths, the minimization of the severity of the COVID-19 pandemic and lack of accountability (art. 6).

30. **The State party should ensure that any human rights violations related to the handling of the pandemic are promptly and adequately investigated, that those responsible are prosecuted, and, if convicted, punished with appropriate sanctions, and that victims have access to reparations.**

Excessive use of force and extrajudicial killings

31. The Committee is concerned by the use of racial profiling and the lack of accountability for excessive use of force and extrajudicial killings by law enforcement officers, and in particular by the absence of effective, timely and independent investigations, prosecutions and convictions of those responsible, as well as by the lack of appropriate reparations for victims. The Committee regrets the suppression of the Group of Specialized Action in Public Security in Rio de Janeiro. The Committee also notes with concern the reports about security forces destroying or manipulating evidence and/or falsely reporting cases as *auto de resistência* (resistance followed by death of a suspect at the hands of a member of security forces) to cover up unlawful killings (arts. 6, 7 and 9).

32. **The State party should:**

(a) **Redouble its efforts to promptly, independently, impartially and thoroughly investigate all allegations of excessive use of force and extrajudicial killings, in line with the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions, ensure that all perpetrators are prosecuted, and, if found guilty, punished, and ensure access to justice and provide full redress and compensation for victims of such violations, including in relation to the neighbourhood raid in Complexo da Maré and the police operations in Jacarezinho and Vila Cruzeiro;**

(b) **Monitor the application of *auto de resistência* to avoid its being used as a way to cover up unlawful killings;**

(c) **Consider the use of body cameras by law enforcement officers across states and the Federation, among other strategies, to improve monitoring and accountability;**

(d) **Collect and publish disaggregated data on the excessive use of force and violations of the right to life by law enforcement officers, including on the basis of the victim’s race, gender, sexual orientation and indigeneity, as well as on homicide rates, and take appropriate measures to avoid the use of racial profiling.**

Hate crimes

33. The Committee is concerned by the high levels of homicide and hate crimes, disproportionately affecting people of African descent, Indigenous Peoples, and lesbian, gay, bisexual, transgender and intersex persons, in particular transgender individuals. While the Supreme Court ruled in 2019 that the legal provisions to protect individuals from racism could be used in cases of homophobia, the Committee regrets the lack of specific legislation to criminalize homophobia (arts. 2, 6 and 20).

34. **The State party should:**

(a) **Consider reviewing its legislation to introduce a separate definition of hate crime and to explicitly criminalize acts of hate crime on all prohibited grounds under the Covenant and strengthen its efforts to combat intolerance, prejudice, racial bias and discrimination;**

(b) **Strengthen the capacity of law enforcement officers to investigate hate crimes and criminal hate speech, including on the Internet, reinforce the training of judges, prosecutors and law enforcement officers on addressing hate crimes and ensure that all cases are systematically investigated, that perpetrators are held accountable with appropriate penalties and that victims have access to reparations.**

Enforced disappearances

35. The Committee is concerned by reports about enforced disappearances, mostly of persons of African descent and persons living in favelas, and by the lack of accountability, including in the case of David Fiúza, who disappeared in 2014. The Committee regrets that the State party has not yet adopted an autonomous offence of enforced disappearance, including penalties that reflect the gravity of the offence (arts. 6, 7, 9, 14 and 16).

36. **The State party should:**

(a) **Revise its legal framework to ensure that all forms of enforced disappearance are clearly defined in criminal law and that the associated penalties are commensurate with the severity of the offence;**

(b) **Enhance its efforts to locate and, in the event of death, identify all persons subjected to enforced disappearance whose fate has not yet been clarified and ensure that all victims and their families receive adequate reparations.**

Climate change and environmental degradation

37. The Committee is concerned by the lack of substantial action to mitigate or address the impact of climate change and environmental degradation on the right to life, in particular for Indigenous Peoples and Quilombola communities. It is also concerned by the extensive deforestation in the Amazon and the lack of a legal and institutional framework adequate for its protection (art. 6).

38. **In accordance with article 6 of the Covenant and in the light of the Committee's general comment No. 36 (2018), the State party should:**

(a) **Strengthen the legal framework to combat and alleviate the consequences of climate change and environmental degradation;**

(b) **Ensure that all projects with an impact on climate change and environmental degradation are developed with the free, prior and informed consent and the meaningful participation of the affected populations, including Indigenous Peoples and Quilombola communities.**

Prohibition of torture and other cruel, inhuman or degrading treatment

39. While welcoming the establishment of the National Mechanism for the Prevention and Combat of Torture, the Committee regrets the adoption of Presidential Decree No. 9,831/2019 hindering the mechanism's ability to fulfil its functions, and the continuation of restrictions despite the judgment of the Supreme Court declaring the decree unconstitutional. The Committee also regrets that only a few states in the State party have

fully functioning committees and mechanisms to prevent and combat torture. The Committee also notes with concern reports about the increase of allegations of torture and other cruel, inhuman or degrading treatment that disproportionately affect those in positions of social vulnerability, including persons of African descent, and about the failure to investigate and prosecute complaints (arts. 6, 7 and 10).

40. The State party should eradicate torture and inhuman and degrading treatment. In particular, it should:

(a) Enable the National Mechanism for the Prevention and Combat of Torture to carry out its functions independently and effectively, with adequate resources, and ensure that the institutional framework is implemented across all states of the Federation;

(b) Conduct prompt, thorough and impartial investigations into all allegations of torture and inhuman and degrading treatment, in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), ensuring that perpetrators are prosecuted, and, if convicted, punished, and that victims receive reparations;

(c) Continue its efforts to provide law enforcement officials, members of the judiciary, prosecutors and prison staff with effective training courses that integrate international standards, such as the Code of Conduct for Law Enforcement Officials and the Principles on Effective Interviewing for Investigations and Information Gathering.

Conditions of detention

41. The Committee remains concerned about the conditions of detention, including severe overcrowding, excessive and indiscriminate use of force by officers, degrading disciplinary sanctions and inadequate infrastructure and access to basic rights, such as food, water, hygiene, including menstrual hygienic products, and health care. While the Committee notes some progress made in reducing the number of people in pretrial detention, in particular through custody hearings, the Committee is concerned about the high level of pretrial detention and the lack of custody hearings across all municipalities (arts. 9 and 10).

42. The State party should ensure that the conditions of detention are in compliance with relevant international human rights standards, including the Nelson Mandela Rules and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). It should, in particular:

(a) Take immediate measures to significantly reduce overcrowding in prisons, including through the wider application of non-custodial measures as an alternative to imprisonment, as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(b) Intensify its efforts to improve the conditions of detention and ensure adequate access to food, clean water and health care for persons held in all places of deprivation of liberty;

(c) Ensure that women in detention have adequate access to medical care and other necessary services that meet their specific needs, including free access to menstrual hygienic products.

Elimination of slavery, servitude and trafficking in persons

43. While the Committee welcomes the creation of the Information System on Trafficking in Persons, it is concerned by the cuts in the budget for combating trafficking in persons and forced labour with a pattern close to slavery, the low levels of criminal prosecutions, the imposition of ineffective administrative penalties, the lack of provisions to ensure adequate and effective remedies and the temporary discontinuation of the “dirty lists” of companies profiting from slavery and forced labour. The Committee is also concerned by reports about the difficulties faced by victims to report cases of trafficking in persons and forced labour

online from remote areas, with the necessary forms containing technical language (arts. 2, 7, 8 and 26).

44. **The State party should:**

(a) **Strengthen efforts to combat forced labour and trafficking in persons, including by increasing the allocated budget and number of inspections, establishing effective and accessible complaint mechanisms and effectively prosecuting and punishing perpetrators;**

(b) **Provide victims with protection, reparations and assistance, including for reintegration;**

(c) **Consider ratifying the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), of ILO.**

Treatment of aliens, including migrants, refugees and asylum-seekers

45. While the Committee welcomes adoption of Law No. 13,445/2017 on migration and the efforts to support refugees and migrants from the Bolivarian Republic of Venezuela, it regrets that at least 39 administrative decrees have introduced entry restrictions related to the pandemic, leading to summary deportations, pushbacks, the suspension of asylum procedures and violations of due process, and that ordinance No. 678/2022 still hinders access to asylum procedures. The Committee notes with concern the lack of culturally sensitive public policies for Venezuelan Indigenous Peoples, the delays endured by unaccompanied and separated children in acquiring access to asylum procedures and the difficulties experienced by Venezuelans in terms of socioeconomic integration and by Haitians in obtaining humanitarian visas (arts. 7, 9, 12, 13 and 24).

46. **The State party should:**

(a) **Ensure asylum-seekers the right to lodge asylum applications through asylum procedures that are in conformity with international standards, such as the Convention relating to the Status of Refugees and the Protocol thereto, respect the principle of non-refoulement and consider reviewing ordinance No. 678/2022;**

(b) **Strengthen the efforts to provide protection and assistance to refugees, asylum-seekers and migrants, including access to social services, local integration and educational, employment and income-generating opportunities, while responding to the specific needs of those in a vulnerable situation;**

(c) **Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Access to justice, independence of the judiciary and fair trials

47. The Committee is concerned about reports of lack of independence, including allegations of “revolving door” between the judicial and executive branches of Government that may lead to conflicts of interest, undue influence and inequalities based on race in the judicial system and about the lack of effective measures to address them. It is also concerned by the declining public trust in the judicial system, in particular by communities of African descent, due to perceived unequal treatment, racial and ethnic discrimination and impunity for perpetrators. The Committee regrets the lack of access to legal assistance, in particular in remote areas, undue trial delays and budget cuts at the Office of the National Public Defender. It also regrets the impact that the COVID-19 pandemic had on the right to a fair trial, when access to lawyers in prison was restricted and hearings were delayed or cancelled. The Committee is concerned that the digital custody hearings in prison and criminal courts, adopted during the pandemic, may become permanent and negatively affect procedural guarantees and the possibility to identify cases of torture or ill-treatment (arts. 2 and 14).

48. **The State party should:**

(a) **Ensure equal protection under the law and address inequalities in the justice system, through legislative and executive measures, and develop strategies to combat racial and all other forms of discrimination recognized under the Covenant;**

- (b) **Increase training and awareness-raising campaigns among law enforcement officers and members of the judiciary, including the prosecution, on equality and non-discrimination;**
- (c) **Increase the number of persons of African descent and members of other racial minority groups, as well as women, at all levels of the judiciary;**
- (d) **Ensure access to justice for all, on an equal footing, including by providing free legal aid to all persons without sufficient means, in accordance with article 14 (3) (d) of the Covenant, especially in cases where the interests of justice so require and in remote and rural areas;**
- (e) **Provide in law and practice appropriate and effective procedural safeguards;**
- (f) **Allocate adequate budgetary resources for the administration of justice;**
- (g) **Adopt legal measures to avoid the phenomenon of a “revolving door” between the executive and judicial branches of Government, in order to ensure the independence and impartiality of the justice system.**

49. The Committee notes with concern the reports of cases of interference with the independence of the judiciary and the allegations of the harassment and intimidation of lawyers working on high-level political cases and about the corruption in the judicial system, in particular in rural areas. It is also concerned by the verbal attacks, including from high-level officials, against the judiciary, including the Supreme Court.

50. **The State party should take all measures necessary to safeguard, in law and in practice, the full independence, impartiality and safety of judges and prosecutors, including by:**

- (a) **Ensuring that they are protected from any form of undue pressure or interference, that procedures for their selection, appointment, suspension, removal and disciplining are in compliance with the Covenant and relevant international standards, including the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors;**
- (b) **Ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and that they are able to carry out their legitimate duties without any undue interference.**

Right to privacy and home

51. The Committee is concerned about reports of forced evictions with excessive use of force by law enforcement officers, without due procedural guarantees or adequate resettlement or compensation, affecting in particular Indigenous Peoples and Quilombola communities (art. 17).

52. **The State party should:**

- (a) **Take all feasible measures to avoid forced evictions and ensure that, when they do take place, all evictions are carried out in accordance with international standards, such as general comment No. 7 (1997) on forced evictions of the Committee on Economic, Social and Cultural Rights and the basic principles and guidelines on development-based evictions and displacement,⁶ including the meaningful and informed participation of the individuals involved and providing effective remedies to individuals whose rights have been violated;**
- (b) **Establish a national mandatory protocol for law enforcement action for cases of forced eviction, in compliance with relevant international standards.**

53. The Committee notes with concern the reports about the harvesting and sharing of sensitive data, including biometric data, in particular from children, their families and

⁶ [A/HRC/4/18](#), annex I.

teachers, through educational technologies, in the context of educational activities, without human rights impact assessments or safeguards (art. 17).

54. The State party should bring its legislation on data protection, facial recognition, surveillance activity and any interference with privacy into full conformity with the Covenant, in particular article 17, and with the principles of legality, proportionality, necessity and transparency, ensure its application and provide victims with access to effective remedies.

Freedom of conscience and religious belief

55. The Committee welcomes the steps taken to combat religious intolerance, including the creation of a joint intergovernmental working group to develop a programme to combat religious racism and the adoption, in certain states, of legislation prohibiting religious discrimination. The Committee remains concerned about rising levels of religious violence and intolerance, including attacks against Indigenous and Afro-Brazilian religious leaders, the burning of sacred places of worship and the rising levels of antisemitism. The Committee regrets that an alternative civil service for those who refuse to perform military service owing to conscientious objections has not been implemented and that some conscientious objectors have had their political rights suspended, such as being removed from the electoral roll (arts. 2, 18 and 26).

56. The State party should guarantee in practice the right to freedom of religion or belief for everyone and address rising tensions among ethnic and religious communities. To do so, it should:

(a) **Combat any act of violence and hate speech against freedom of conscience and religious belief, which affects in particular religious minorities, and step up efforts to ensure that such crimes are investigated, the perpetrators prosecuted, and, if convicted, punished, and that victims are compensated;**

(b) **Ensure a non-discriminatory and non-punitive alternative civilian service.**

Freedom of expression

57. While commending the establishment of the National Observatory on Violence against Journalists and Communicators, the Committee is concerned by the increase in physical attacks, verbal harassment and intimidation against journalists, especially women reporters, including by high-level government officials. The Committee regrets the use of criminal laws, in particular provisions on crimes against honour, to intimidate journalists and censor free speech. The Committee is also concerned about the restrictions on freedom of expression of bill No. 2630/2020 (fake news bill) (arts. 19 and 20).

58. The State party should take all measures necessary to guarantee the full enjoyment of freedom of expression by everyone, in accordance with article 19 of the Covenant and the Committee's general comment No. 34 (2011), and in particular it should:

(a) **Prevent and combat all acts of harassment and intimidation against journalists and human rights defenders and guarantee their effective protection;**

(b) **Ensure that all allegations of harassment and intimidation are investigated, that perpetrators are brought to justice and appropriately punished and that victims receive appropriate reparations;**

(c) **Revise legislation that may unduly restrict freedom of expression, consider decriminalizing defamation, slander and insult and, at least restrict the application of the criminal law to only the most serious cases.**

Freedom of peaceful assembly and freedom of association

59. The Committee is concerned about reports of the use of excessive force by security forces in response to peaceful assemblies, the misuse of lethal and less-lethal weapons resulting in serious bodily harm and the lack of accountability. The Committee regrets the lack of specific legislation regulating the use of force during demonstrations, in line with the

Covenant and as recommended in its general comment No. 37 (2020) on the right of peaceful assembly, and it is concerned about allegations of punishment with lengthy sentences handed down to some protesters for exercising their right of peaceful assembly. The Committee is also concerned about reports that the labour law reforms of 2017 restrict the rights of labour unions (arts. 21 and 22).

60. In accordance with article 21 of the Covenant and in the light of the Committee's general comment No. 37 (2020), the State party should:

(a) Ensure that all allegations of excessive use of force and arbitrary arrest and detention by security forces at demonstrations are investigated, ensure that perpetrators are prosecuted, and, if found guilty, punished, and that victims have access to remedies;

(b) Consider revising the labour law reforms of 2017 in order to bring them into full compliance with the Covenant and ensure that the legislation governing labour unions is not used to control, interfere with or infringe upon the rights of such organizations.

Human rights defenders

61. The Committee is concerned by the high increase of homicides, intimidation, unlawful surveillance and criminalization of, and violence, harassment and threats against, human rights defenders, Indigenous Peoples, environmental defenders and women's rights defenders and the lack of investigation of such crimes. The Committee regrets that the programme for the protection of human rights defenders, communicators, and environmentalists has not been effectively implemented, due to a lack of resources and autonomy, protection measures have not been adequate and the specific needs related to gender, race, ethnicity and cultural ties with the territory have not been addressed (arts. 6, 17, 19, 20, 21, 22 and 26).

62. The State party should:

(a) Redouble its efforts to combat and prevent all forms of violence and threats against, and the harassment and intimidation of, human rights defenders and other civil society actors and take all measures necessary to guarantee their effective protection, so as to ensure that they are free to carry out their work without fear of becoming victims of violence or reprisals;

(b) Ensure that all human rights violations and attacks against human rights defenders are investigated, perpetrators brought to justice, and, if found guilty, duly punished, and that victims receive reparations;

(c) Develop comprehensive legislation and policies to protect human rights defenders, in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

(d) Develop legislation and policies for the programme for the protection of human rights defenders, communicators, and environmentalists and ensure that it is properly resourced to implement its programmes efficiently and independently all over the country, with a gender, race, culture and ethnicity-sensitive approach and with individual and collective protection systems.

Participation in public affairs

63. The Committee is concerned by reports of violence, harassment, intimidation, and threats directed at politicians and political candidates during election campaigns, in particular women, people of African descent, Indigenous Peoples and lesbian, gay, bisexual, transgender and intersex persons. While the Committee acknowledges that decree No. 11,433/2023 establishes quotas in the executive and that Law No. 14,192 on combating political violence against women is aimed at increasing the representation of women, Brazilians of African descent and Indigenous Peoples in the legislative and executive branches of Government, the low representation rates remain of grave concern. The Committee regrets the lack of accountability and impunity for the violence against politicians,

including on the murder of Councillor Marielle Franco and her driver, Anderson Gomes (arts. 25 and 26).

64. The State party should give full effect to the right of every person to participate in public affairs, without discrimination, and in particular it should:

(a) **Protect political candidates and politicians, especially women, persons of African descent, Indigenous Peoples and lesbian, gay, bisexual, transgender and intersex persons, from violence, harassment and intimidation, including by investigating and prosecuting such cases, holding perpetrators accountable, including in the case of Marielle Franco, and providing adequate remedies to victims;**

(b) **Strengthen efforts to achieve the full and equal participation of women, persons of African descent, Indigenous Peoples, lesbian, gay, bisexual, transgender and intersex persons and members of disadvantaged and minority groups in political and public life, in particular in decision-making positions.**

Rights of Indigenous Peoples and people of African descent

65. The Committee remains concerned about the lack of effective implementation of the land demarcation process, leading to a growth of land conflicts, illegal encroachment and exploitation of resources and attacks on and killings of Indigenous Peoples. The Committee is also concerned about the *marco temporal* (temporal landmark) limitation to claim the demarcation of Indigenous land and regrets that the titling of land for Quilombola communities has been progressing very slowly (arts. 1 and 27).

66. The State party should redouble its efforts to ensure the promotion, protection and recognition, both in law and in practice, of the rights of Indigenous Peoples, in particular with respect to land, territory and natural resources, and of other minorities. It should also:

(a) **Expedite the process of demarcation and titling of Indigenous and Quilombola lands, including by ensuring adequate resources for implementation;**

(b) **Uphold the right of Indigenous Peoples to the lands and territories that they have traditionally owned or occupied, including by reviewing its current legislation and rejecting and ending the application and institutionalization of the temporal landmark doctrine;**

(c) **Step up its efforts to prevent conflicts over land use, including by providing guarantees in relation to land traditionally owned or occupied by Indigenous Peoples and Quilombola communities and by combating the illegal invasion and illegal activities by logging, mining, fishing and large-scale farming companies;**

(d) **Provide effective protection and remedies for all human rights violations resulting from the lack of effective legal protection of lands traditionally owned or occupied by Indigenous Peoples and Quilombola communities.**

67. While the Committee welcomes the increase in the budget of the National Indigenous People Foundation, it regrets that, during the period under review, there have been instances when the Foundation was undermined. The Committee is concerned about reports that the principle of free, prior and informed consent of Indigenous Peoples and Quilombola communities in matters concerning their rights is routinely violated (art. 27).

68. The State party should:

(a) **Guarantee the systematic application of the consultation processes with Indigenous Peoples and Quilombola communities necessary to obtain the free, prior and informed consent on issues concerning their rights;**

(b) **Strengthen the capacities of the National Indigenous People Foundation, including by providing it with adequate resources, and ensure its autonomy so that, through its activities, the rights of Indigenous Peoples and Quilombola communities are fully protected and promoted.**

D. Dissemination and follow-up

69. The State party should widely disseminate the Covenant, the two Optional Protocols thereto, the State party's third periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the official language of the State party, as well as minority languages.

70. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 27 July 2026, information on the implementation of the recommendations made by the Committee in paragraphs 32 (excessive use of force and extrajudicial killings), 42 (conditions of detention) and 66 (rights of Indigenous Peoples and people of African descent) above.

71. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fourth periodic report. The Committee requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2031.
