
Advance unedited versionDistr.: General
7 April 2022Original: English
English, French and Spanish only

Human Rights Committee**List of issues in relation to the third periodic report of Brazil*****Anti-corruption measures (arts. 2 and 25)**

1. Please: (a) describe the legal framework in place to punish corruption, including detailing how the Clean Companies Act is enforced and describing any other anti-corruption legislation in place; (b) provide data on the number of investigations, prosecutions and convictions for corruption, including the nature and level of defendants and up to date information on the status and outcomes of investigations initiated in the context of the Lava-Jato Operation; (c) provide additional information about the scope and outcomes of the National Strategy for Combating Bribery and Money Laundering (ENCCLA). Please also respond to allegations of corruption in the context of public procurement processes for resources to address the COVID-19 pandemic, including providing any information about whether former Rio de Janeiro Governor Wilson Witzel will face criminal charges for alleged graft during the purchase of medical supplies.

The fight against impunity and past human rights violations (arts. 2, 6, 7 and 14)

2. Recalling the previous recommendation of the Committee (para.18), please: (a) provide information about progress made within the reporting period to hold perpetrators of historical human rights abuses during the military dictatorship period (1964-1985) to account, including elaborating on the concrete implementation of the recommendations of the Amnesty Commission and the National Truth Commission; (b) include any available data on the convictions secured for such violations and compensation payments made to victims, including redress provided to indigenous peoples in cases where violations of their rights were identified; (c) comment on the compatibility of the 1979 Lei de Amnistia (Amnesty Law) with the recommendations of relevant truth commissions and the provisions of the Covenant.

Non-discrimination (arts. 2, 19, 20 and 26)

3. Please: (a) indicate which legislative and other measures have been taken to combat discriminatory laws and social practices based on sex, sexual orientation, race, religion, indigenous status, disability, albinism, socioeconomic status and/or ethnicity; (b) describe measures taken to protect individuals facing intersecting forms of discrimination; and (c) provide additional information on the expansion of the anti-discrimination legal framework, including whether this includes steps to develop dedicated anti-discrimination legislation.

4. Please: (a) respond to allegations of increasing hate speech, including by high-level politicians and online, against people of African descent, LGBTI individuals and

* Adopted by the Committee at its 134th session (28 February-25 March 2022).

indigenous peoples; (b) describe the measures taken by the State party to protect those at risk, including by providing additional information about the scope and outcomes of the Humaniza Redes programme; (c) outline the legal framework in place to prevent and punish hate speech, including by clarifying of whether hate speech is criminalised in national law, and providing data on the number of complaints, investigations, prosecutions and convictions secured for such offenses.

Gender equality (arts. 3 and 26)

5. Recalling the previous recommendation of the Committee (para.10), please provide information about: (a) the resources allocated to programmes designed to promote gender equality and the rights of women for the reporting period, including the budget of the Ministry of Women, Family and Human Rights;(b) the State party's efforts to increase the participation of women from marginalized groups, including Roma, indigenous peoples and those of African descent in senior decision making roles in both the private and public sector; (c) the measures taken by the State party to address obstacles to the increased political participation of women, including describing the steps taken, such as the promulgation of Law 14.192/2021, to protect women participating in electoral processes from harassment, threats and violence.

State of emergency (art. 4)

6. Please provide information about the measures taken by the State party to address the COVID-19 pandemic and the legal basis of any such measures. In particular, please specify whether any such measures derogate from the State party's obligations under the Covenant. If so, please specify whether the measures were strictly required by and proportional to the exigencies of the situation and limited in duration, geographical coverage and material scope, as outlined by the Committee in its statement on derogations from the Covenant in connection with the COVID-19 pandemic.

Counter-terrorism measures (arts. 2, 4, 7, 9, 14, 15, 17 and 21)

7. Please: (a) provide information about the status and material scope of legislative measures to expand the counter-terrorism legal framework, including Bill of Law 272/2016 and Bill No. 1595, 2019, as well as the efforts made to incorporate meaningful consultation with affected stakeholders during the drafting process; (b) respond to allegations that proposed legal amendments contain broad and imprecise definitions of terrorism, as well as provisions that risk criminalising rights under the Covenant, including the defence of human rights by civil society organizations and social movements, shield perpetrators of human rights abuses, including those taking place in the context of peaceful assemblies, from liability and erode legal certainty and fair trial rights; (c) provide information about the National Counter-Terrorism System and a National Counter-Terrorism Policy that are included within draft legislation, including detailing their proposed powers and whether they will be independent from the Executive Government; (d) detail the powers of monitoring and surveillance outlined in the proposed counter-terrorism legal framework and the degree of judicial oversight of such powers and comment on their compatibility with the provisions of the Covenant.

Violence against women, and domestic violence (arts. 2, 3, 6, 7 and 26)

8. Recalling the prior recommendation of the Committee (para.11), please: (a) provide for the reporting period more detailed, disaggregated data on the prevalence of all forms of violence against women, including a breakdown of offenses, as well as the ethnicity, race and socio-economic background of victims; (b) respond to reports of significantly higher rates of femicide, and other forms of violence against women, amongst women of African descent and describe the measures taken to provide specific protections to such women; (c) provide information about the funding allocated to programmes designed to prevent and address violence against women, including shelters, and clarify whether the State party intends to review the

implementation of relevant legal provisions, in light of the continuing high levels of violence against women. Please also describe the impact of the COVID-19 pandemic on women and girls' vulnerability to domestic violence and provide information about any targeted protection measures taken by the State party.

Voluntary termination of pregnancy and sexual and reproductive rights (arts. 6, 7 and 8)

9. Bearing in mind the Committee's General Comment 36 (para.8), please: (a) respond to reports that women and girls, including victims of rape and incest, cannot consistently access the services necessary to safely terminate pregnancies under the circumstances which are legal within the State party; (b) provide information on the number of women who have faced criminal charges for seeking abortion services within the reporting period and comment on the compatibility of such prosecutions with the provisions of the Covenant; (c) clarify whether the State party intends to widen the circumstances under which pregnancies can be legally terminated.

Right to life (art. 6)

10. Bearing in mind the Committee's General Comment no. 36 and the Office of the High Commissioner for Human Rights (OHCHR) Guidance on Less Lethal Weapons in Law Enforcement, please: (a) respond to allegations of the militarisation of policing within the State party, including the unnecessary and disproportionate use of force by Police and security officers in Brazil's poor, marginalized and predominantly Afro-Brazilian neighbourhoods, known as *favelas*, leading to extrajudicial killings and other loss of life, including amongst children; (b) respond to reports of multiple deaths as a result of police raids during the COVID-19 pandemic, including during a raid in Jacarezinho on 31 May 2020, despite a Supreme Court injunction against such activities and provide information about the investigation into these killings; (c) clarify whether the State party is intending to review Law No. 13,060/2014 and the Guidelines on the Use of Force by Public Security Agents and/or undertake reform in order to change the culture of policing and significantly reduce its militarisation, in light of the ongoing use of excessive and lethal force.

11. Recalling the previous recommendation of the Committee (para.12), please: (a) detail the mechanisms in place to receive and investigate complaints of excessive use of force by police and security officers, including detailing how independence and impartiality are upheld in all investigations and clarifying whether a unit of prosecutors specialised in police abuse was dissolved in 2021 and whether military justice mechanisms have been used in cases where civilians have been killed by security forces; (b) provide up to date information of the status and outcomes of the investigation into the killing of Joao Pedro Matos Pinto; (c) provide information about the number of complaints, investigations, prosecutions and convictions secured for violations perpetrated by police and security officers, as well as the remedies, including compensation, provided to victims, in the reporting period; Please include information about the race of all individuals injured or killed by police violence in the reporting period, including the the percentage, of victims of African descent.

12. Please: (a) respond to reports of high levels of homicide within the State party and to allegations that people of African descent, indigenous peoples and LGBTI persons are disproportionately victimised; (b) provide information about the legal framework in place to punish all forms of hate crime, including clarifying whether the State party intends to introduce specific legislation to criminalise homophobia; (c) provide any available disaggregated data about the number of complaints, investigations, prosecutions and convictions for such crimes, as well as the remedies, including compensation, provided to victims and their families. Please also describe any measures taken to prevent such violence.

13. Please: (a) respond to allegations of enforced disappearances during the reporting period, including violations perpetrated by paramilitary groups, which include police officers and former state officials; (b) describe the relevant legal framework in place, including clarifying whether it defines and criminalizes all acts

of enforced disappearances and assigns penalties that are proportionate to the gravity of the crime, in accordance with the Covenant and other international human rights standards; (c) report on measures taken to conduct prompt, thorough and impartial investigations into all cases of alleged enforced disappearances, including those in which current or former police officers and State officials are implicated and to subject the perpetrators to criminal justice proceedings. . Please include information about the status of the Davi Fiuza case, as well as efforts made within the reporting period to investigate unresolved prior cases of enforced disappearances.

14. Please: (a) respond to reports of high levels of mortality from COVID-19 in the State party and describe the measures taken to prevent avoidable deaths; (b) describe the measures taken to protect vulnerable groups, such as Afro-Brazilians, pregnant women, and indigenous peoples, from COVID-19 and provide statistics about mortality rates from COVID-19 within these groups, as compared to the general population; (c) share the findings of the investigation launched by State party's Senate into the Government's handling of the COVID-19 pandemic..

15. Please provide information about efforts to prevent and mitigate the effects of climate change and environmental degradation in Brazil, including on the right to life (see the Committee's general comment No. 36, para. 62). Please: (a) describe the relevant legal and institutional framework in place to prevent and mitigate the effects of climate change and respond to reports of insufficient enforcement of and even the rollback of environmental regulations, including those governing licencing and impact assessments; (b) respond to reports of extensive illegal deforestation in the Amazon, provide accurate data on the extent of such deforestation and describe the steps taken by the State party to address such practices; and (c) provide information about efforts to reduce carbon emissions, including further investment in sustainable energy sources.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment and treatment of persons deprived of their liberty (art. 6, 7 and 10)

16. Please: (a) describe the efforts made to ensure an effective National Mechanism for Prevention of Torture (NPM) is in place and comment on changes made to the NPM by Executive Decree 9831, 2019; (b) provide available data, disaggregated by race, on the number of complaints of torture by persons deprived of their liberty during the reporting period and respond to allegations that individuals of African descent are more likely to be victims of torture, including within the State party's prisons; (c) describe the mechanisms in place at the state level to receive and investigate cases of torture and provide data on the number of complaints, investigations, prosecutions and convictions, as well as the remedies, including compensation, provided to victims within the reporting period.

Liberty and security of the person and the treatment of persons deprived of their liberty (art. 9 and 10)

17. Recalling the previous recommendation of the Committee (para.16), please: (a) respond to reports of severe overcrowding, inter-prisoner violence and a lack of adequate hygiene, health and recreational facilities within the State party's prison system; (b) describe the measures taken to reduce the number of pre-trial detainees within the prison system, including clarifying whether custody hearings are being held in all municipalities and have been continued during the COVID-19 pandemic; (c) indicate whether the State party will consider increasing the use of alternatives to detention, particularly in cases of non-violent offenses; addressing the high rate of recidivism amongst those released from the prison system; and/or evaluating the Prison System Support Program. Please also describe the steps taken to protect the prison population from COVID-19 and respond to reports of deaths from the disease amongst detainees.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

18. Recalling the previous recommendations of the Committee (paras. 14 & para. 15), please: (a) describe the steps taken to identify and rescue victims of forced labour and human trafficking, including detailing the budget assigned to the labour inspection regime, as well as systems that are in place to identify victims of all forms of trafficking; (b) respond to reports that people of African descent, migrants and indigenous peoples are disproportionately represented amongst victims of forced labour and human trafficking and describe measures taken to address systemic vulnerability to and demand for forced labour and trafficking; (c) provide more detailed information about the number of complaints, investigations, prosecutions and convictions for forced labour and human trafficking during the reporting period, as well as the remedies, including compensation, provided to victims. Please include information about the severity of penalties, whether of criminal or administrative nature, awarded to perpetrators.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

19. Please: (a) provide information about the introduction of Ordinance 1, 2017 and respond to reports that unaccompanied minors and children are experiencing delays in accessing to the asylum procedures mandated by this legislation; (b) respond to reports of delays in the resettlement of Venezuelans in need of international protection, resulting in individuals living in precarious street situations; (c) describe the steps taken by the National Committee for Refugees (CONARE) and other relevant bodies to ensure that the asylum system effectively responds to the needs of indigenous peoples displaced by the humanitarian situation in Venezuela. Please also describe the legal measures that were taken to restrict access to the State party's territory during the COVID-19 pandemic, including the introduction of Ordinance 655, 2021, and discuss the compatibility of such restrictions with the State party's obligations under international law, including full respect for the principle of non-refoulement.

Access to justice, independence of the judiciary, and fair trial (arts. 2 and 14)

20. Recalling the previous recommendation of the Committee (para.17), please: (a) describe the measures taken by the State party to address inequalities, including on the basis of race, within the justice system; (b) respond to reports of politicization and corruption in the judicial system and describe the measures been taken to address declining trust in the justice system; (c) provide information about access to legal aid and public defence across all states, including responding to reports that the budget of the National Public Defenders Office was cut significantly in 2020. Please also respond to reports that the COVID-19 pandemic has impacted the fair trial rights of individuals, including through restricted access to lawyers in prisons and delays and cancellations of hearings.

21. Please describe the measures taken by the State party to uphold the independence of all lawyers, judges and prosecutors from the executive and legislative branch. Please respond to allegations that lawyers involved in high profile, political cases, have been subjected to intimidation and interference with their work. Please also respond to reports of public verbal attacks, including by high-level State officials, against the judiciary, including the Supreme Court, and comment on the compatibility of such practices with full respect for judicial independence and impartiality.

Right to privacy (art. 17)

22. Recalling the previous recommendation of the Committee (para.6), please respond to multiple reports of evictions without adequate notice and prior consultation within the reporting period, including particularly those affecting indigenous peoples and those that took place in the context of the State party's preparations to host the 2016 Summer Olympics. Please provide information on any investigations into such

forced evictions and how the Government has addressed the issue of resettlement and compensation for victims.

23. Please describe (a) the regulatory framework at the State and Federal level governing the collection, storage, use and retention of people's data, including biometric data, including through the use of facial recognition technology by both Government and non-State actors and the available avenues to challenge such collection and retention; (b) respond to reports that a Presidential decree in October 2020 mandated the consolidation of all public data sources and discuss whether such measures were subject to public consultation and/or independent oversight; (c) respond to allegations that EdTech websites and apps, which were endorsed and used by the education authorities of Minas Gerais and São Paulo, harvested and sold data collected in the context of online educational activities provided to children during the COVID-19 pandemic.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

24. Please: (a) clarify whether the State party recognises conscientious objection to military service in law and practice; (b) respond to reports that religious minorities, including those of Jewish and Candomblé faith, are subjected to various forms of discrimination and persecution, including derogatory remarks by high-level public officials, physical assaults and incidences of hate speech; (c) describe the steps taken to prevent violent attacks against Afro-Brazilian and indigenous places of religious worship, as well as to hold those responsible for such attacks to account.

Freedom of expression (arts. 19 and 20)

25. Please (a) respond to reports of violence attacks, harassment, threats, online attacks and intimidation against journalists, including from high-level public officials, particularly those journalists that cover issues, such as corruption, violent crime and the Government's COVID-19 response; (b) provide information about the legal provisions in place that criminalise insult, slander and defamation and their frequent use to restrict online expression, including commenting on whether such provisions have a chilling effect on freedom of expression and are compatible with the provisions of the Covenant; (c) provide information about the current status and material scope of the Bill 2630/2020 Law on Freedom, Responsibility and Transparency in the Internet, known as the "Fake News Bill," and respond to reports that the draft legislation allows for serious restrictions on freedom of expression and was developed without the meaningful consultation of affected stakeholders.

Freedom of association and assembly (arts. 21 and 22)

26. Bearing in mind the Committee's General Comment No.37 and the OHCHR Guidance on Less Lethal Weapons in Law Enforcement, please: (a) respond to reports of the excessive and lethal use of force during the policing of peaceful assemblies, including the 2013 June Day, large-scale protests in Amapá in 2020, anti-racism protests, student protests, and indigenous protests in Brasília in 2021; (b) provide information about the outcomes of any investigations into excessive use of force during protests, including in cases of serious injury, such as those impacting Deborah Fabri, Sérgio Silva and Edvaldo Alves; (c) respond to reports that individuals, such as Elisa Quadros Pinto and Janice Ferreira Silva, have faced lengthy prison sentences for exercising their right of peaceful assembly. Please also comment on reports that 2017 labour law reforms restricted the rights of labour unions and that such rights are further at risk because of the planned transfer of relevant competences from the Ministry of Labor and Employment to other government bodies.

Human rights defenders (arts. 6, 17, 19, 20, 21, 22 and 26)

27. Please describe the steps taken by the State party to safeguard civic space, including providing information about measures taken to protect human rights defenders, including environmental defenders, indigenous peoples, religious organisations, people of African descent, women and LGBTI persons, from violent

attacks, threats, intimidation and harassment. Please include information about the Program for the Protection of Human Rights Defenders (PPDDH), the number of people protected in each States, including responding to reports that it is not consistently effective and has been developed and implemented without meaningful consultation with affected stakeholders. Please also explain why the budget for the programme decreased in 2015, 2016 and 2017 and provide up to date information on the resources dedicated to the program.

Participation in public affairs (arts. 25–26)

28. Please: (a) respond to reports of violence, intimidation, threats and harassment directed at political candidates and politicians in the run up to the 2018 general elections and the 2020 municipality elections; (b) provide information about the steps taken to protect political candidates and politicians, including women, people of African descent and LGBTI persons, from such attacks; (c) provide information about the investigations undertaken into acts of violence against politicians and political candidates, including Marielle Franco, and clarify the steps that have been taken to hold perpetrators accountable and to provide access to remedies for victims. Please include information about the measures taken by the State party to ensure non-repetition of such human rights violations and prevent a chilling effect on political representation, particularly in light of the upcoming 2022 general elections.

Rights of minorities (arts.1 and 27)

29. Recalling the previous recommendation of the Committee (para. 6), please: (a) respond to reports that provisions in Article 231, § 2 of the Brazilian Constitution are yet to be consistently implemented and that progress towards the demarcation of indigenous lands has significantly slowed in recent years; (b) clarify the legal basis of the time frame limitations to claims for the demarcation of indigenous land and provide information about the current status of the Supreme Court judgement in the Xokleng case; (c) provide information about the current status and material scope of the Proposed Constitutional Amendment No.187, including clarifying whether it allows for the commercial exploration of indigenous lands.

30. Please: (a) respond to reports that the mandate of the National Indian Foundation (FUNAI) has been significantly weakened, including through budget cuts and the appointment of senior officials who oppose its mandate; (b) describe the measures taken by the State party to uphold the principle of free, informed and prior consent in the development of all legislative, policy and programme measures impacting indigenous peoples; and (c) respond to reports of recent legislative measures designed to curtail the rights of indigenous peoples, including Legislative Decree (PDL) No. 177/2021 which proposes the denouncement of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). Please also provide information about the steps taken by the State party to provide support to meet the specific needs of indigenous peoples during the COVID-19 pandemic.