



Racism and xenophobia in Brazil

Report submitted by Organizations Conectas Direitos Humanos and Ação Social Franciscana (SEFRAS), with the technical advise of Franciscans International, to the Committee on Elimination of Racial Discrimination (CERD) for the Review of Brazil in 2022

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I. Introduction

1. **Conectas Direitos Humanos** is a non-profit association based in São Paulo and founded in 2001. Its mission is to protect, enforce and promote human rights and combat inequality to build a fair, free and democratic society from a Global South perspective.
2. **Ação Social Franciscana** is a civil society organization created by the Franciscan Province of the Immaculate Conception of Brazil in 2000 to professionalize the social services provided by Franciscans in the country. At the local level, it directly assists around 2,000 people in the states of São Paulo and Rio de Janeiro, with daily activities for children outside school hours and early childhood care, attention and protection for seniors, socio-educational and nutritional activities for homeless people, shelter and social inclusion for immigrants, and actions to defend the rights and improve public policies for these groups.
3. **Franciscans International (FI)** is an international non-governmental human rights organization, established in 1989, in General Consultative Status with the United Nations Economic and Social Council. Its staff consists of professionals of diverse backgrounds working to translate grassroots voices in human rights advocacy action at the United Nations level. FI seeks to promote and protect human rights and environmental justice.
4. This report presents information on the human rights situation of migrants and refugees in Brazil, including indigenous people coming from Venezuela, bringing data on situations of discrimination, racism and xenophobia that occurred especially in the period from 2020 to 2022. This document also seeks to react to and complement the periodic reports submitted by Brazil, in July 2020.

II. Article 1 - Concept of ethnic and racial discrimination

4. Regarding **paragraph 15** of the Brazilian report to CERD, it is important to emphasize that, during the COVID-19 pandemic, Brazil disrespected the principles of its Migration Law highlighted in that paragraph, by adopting discriminatory criteria to allow people to enter national territory.
5. Since March 18th 2020, the Brazilian government has published a sequence of 39 administrative rules placing restrictions on entry into the country, under the pretense of containing the spread of COVID-19. Among the measures established by them, there was a difference in treatment regarding the countries of origin and means of transportation, violating the rights of equality

and non-discrimination. Moreover, these administrative rules are illegal, unconstitutional and disrespect the national legislation, as well as international human rights treaties ratified by Brazil.

6. The Administrative Rule 120/2020¹ was the first to address the matter, exclusively prohibiting the entry of migrants from Venezuela by land, evidencing the discriminatory perspective of this measure, directed to a specific nationality.
7. Subsequently, the administrative rules prohibited the entry of people coming from any State, with some exceptions open to some groups, such as Brazilian nationals, migrants with permanent residency or foreign professionals on an international mission.
8. However, until June 2021, these administrative rules remained more discriminatory against people coming from Venezuela, since no regulated entry exceptions used to apply to them, ignoring the right of these people to asylum, given that the Brazilian State has recognized the situation of serious and widespread violation of human rights in Venezuela. Until June 2021, the administrative rules had paragraphs that expressly determined that: “In the event of entry into the country by highways, other land paths or water transport, the exceptions (...) do not apply to foreigners coming from the Bolivarian Republic of Venezuela”².
9. In addition, the discriminatory treatment was extended to migrants coming by land and sea, considering that entry restrictions applied only to them. In fact, the pandemic was used only as an excuse, because air borders were opened before all others for tourists in June 2020 and there was the exclusive opening of the land border with Paraguay, in October 2020, while all others remained closed until December 2021, proving that the Government was guided by economic interests rather than by sanitary reasons.
10. We also emphasize that the 39 administrative rules above mentioned violate International Conventions, the Federal Constitution, the Migration and Refugee Law, as well as the Pandemic Law n. 13,979/2020, infringing on the fundamental rights to a full defense, adversarial proceedings and due legal process, as well as the principle of non-refoulement, since all of them

¹ http://www.planalto.gov.br/ccivil_03/Portaria/prt120-20-ccv.htm

² [Administrative Rule 204/2020](#), [Administrative Rule 255/2020](#), [Administrative Rule 319/2020](#), [Administrative Rule 340/2020](#), [Administrative Rule 01/2020](#), [Administrative Rule 419/2020](#), [Administrative Rule 456/2020](#), [Administrative Rule 470/2020](#), [Administrative Rule 478/2020](#), [Administrative Rule 518/2020](#), [Administrative Rule 615/2020](#), [Administrative Rule 630/2020](#), [Administrative Rule 648/2020](#), [Administrative Rule 651/2021](#), [Administrative Rule 652/2021](#), [Administrative Rule 653/2021](#) and [Administrative Rule 654/2021](#).

determined immediate deportation or repatriation as a consequence of non-compliance, including the administrative rule currently in force³. Another illegal and disproportionate sanction provided for in the administrative rules, including the current one, is the suspension of asylum requests, which violates the right to immediate access to the asylum application procedure, putting the life and liberty of asylum seekers at risk.

11. Furthermore, the administrative rules establish civil, administrative and criminal liability as sanctions, and, consequently, fines up to R\$ 10.000 (approximately US\$ 2.000) are being imposed for irregular stay in the country. However, it should be noted that no arrests for migratory reasons were identified during this period.

12. The restrictions imposed by the administrative rules for almost two years also resulted in the impossibility of migratory regularization of people who entered by land, while land borders were closed. Migrants who were not immediately deported remained in Brazil in an irregular situation, facing extreme vulnerability. During this period, Venezuelans in this condition could not even access the shelter and interiorization services of Operation Welcome. After the opening of land borders, all migrants were allowed to access regularization services, but the administrative rules impacted on a repressed demand for migratory regularization. Regularization requests are taking a long time to be analyzed, aggravating the vulnerability of undocumented migrants.

13. Therefore, the interministerial administrative rules created a series of discriminations against vulnerable people who entered Brazil by land in search of protection, having their rights denied and being subjected to illegal and unconventional measures. Despite the revision of some provisions, the impact of the administrative rules will be felt for a long time, whether in the deficit of regularization services, as well as in the migrants' difficulty in accessing rights and protection, putting in check the human right to migrate.

III. Article 5 - Equality of civil and political rights and of economic, social and cultural rights

Unequal access to social rights and regularization services

14. The measures adopted by Brazilian governmental bodies during the pandemic have also created barriers for migrants and refugees to access basic rights.

³<https://www.in.gov.br/en/web/dou/-/portaria-interministerial-n-678-de-12-de-setembro-de-2022-428660501>

15. There was a reduction in the regularization services provided by the Federal Police, which affected people already regularized in the country, whose documents were close to expire.
16. Even though the Federal Police issued a statement in March 2020 about the suspension of the deadlines and the extension of regularization documents to the following months⁴, the information was not transmitted in an articulated and adequate way, in particular to other public bodies and civil society that assist the migrant population.
17. Even though the Brazilian migration policy allows migrant population access to social assistance and social security, several people faced difficulties in obtaining social benefits, such as the Emergency Aid, an income transfer program created during the pandemic, because public institutions did not accept their expired documents. In addition, there was no information for remote access to these social benefits nor technological and linguistic support for this specific population, often newly arrived in the country.
18. The Federal Police extended the expiration date of migratory documents several times, until September 2022⁵. People with these expired registrations are still waiting for the possibility of renewing their documents, since the administrative rule that extended the deadlines is no longer in force. For now, migrants are also subject to penalties and difficulties in accessing other documents, such as an employment record book, for example.
19. As mentioned before, although the administrative rules determined temporary restriction of entry into the country, there was not necessarily a reduction in the migratory flows. Therefore, people who entered Brazil irregularly during this period were even more vulnerable, because no alternative regularization procedure has been created to contemplate them.
20. In addition, people who entered irregularly during the pandemic, often due to human rights violations and other vulnerabilities, remain subject to administrative fines and are facing challenges to appeal the penalties at the judicial level. Thus, contrary to the legislation mentioned by the government in **paragraph 177** of its report to the CERD, currently there is discrimination against migrants in Brazil according to the way they entered the Brazilian territory, consequently generating inequality of rights.

⁴https://politica.estadao.com.br/blogs/fausto-macedo/wp-content/uploads/sites/41/2020/03/sei-08211001340-2020-36-moc-4-20-cqpi-coronaviruspdfpdf_170320201223.pdf

⁵ <https://in.gov.br/en/web/dou/-/portaria-n-28/2022-direx/pf-de-11-de-marco-de-2022-386096092>

Violence against migrants and refugees

- 21.** Cases of xenophobia and racial discrimination against migrants and refugees also increased in this period, marked by socioeconomic tensions, and drew attention for their violence, brutality and the xenophobic and racist tone of the aggressors. Racism is the worst structural problem we face in Brazil today and, although the country has legal mechanisms to promote the human rights of migrants and refugees and to combat xenophobia and any forms of discrimination, black and indigenous migrants are more often the targets of racist attacks and institutional violence, as well as the national black and indigenous population.
- 22.** In 2020, in the East Zone of the city of São Paulo, João Manuel, a 47 year old Angolan man, was stabbed after an argument over the payment of Emergency Aid for migrants. According to witnesses, the aggressor declared that “foreigners only wanted to receive money from the government, while Brazilians are suffering”⁶.
- 23.** In January 2022, Moïse Kabagambe, a young black refugee from the Democratic Republic of Congo, was beaten to death in Rio de Janeiro, after charging for services that had not been paid for by his employer⁷. The case had national repercussions and mobilized protests in São Paulo and Rio de Janeiro. Despite the momentary commotion, in April 2022, Moïse’s relatives and congolese friends had to leave Brazil, because they were being threatened⁸. According to Amnesty International’s director, the authorities responsible for the investigations were too slow and there should be transparency regarding the process⁹.
- 24.** About a month later, in São Paulo, Marcelo Caraballo, a 22 year old Venezuelan, was murdered by the owner of the house he was renting due to a debt of R\$ 100¹⁰.

⁶<https://g1.globo.com/sp/sao-paulo/noticia/2020/05/19/angolano-morre-esfaqueado-na-zona-leste-de-sp-e-2-ficam-feridos-imigrantes-deixam-suas-casas-em-itaquera-por-medo-de-xenofobia.ghtml>

⁷<https://www.cnnbrasil.com.br/nacional/policia-do-rj-ve-assassinato-de-moise-kabagambe-como-tragedia-social/>

⁸<https://www.cnnbrasil.com.br/nacional/relatando-ameacas-amigos-de-moise-kabagambe-deixam-o-brasil/>

⁹<https://www.metropoles.com/brasil/policia-demorou-a-agir-diz-lider-da-anistia-internacional-sobre-moise>

¹⁰<https://g1.globo.com/sp/sao-paulo/noticia/2022/02/09/jovem-venezuelano-e-assassinado-em-sp-apos-briga-por-divida-de-r-100-basta-de-xenofobia-dizem-movimentos-sociais.ghtml>

25. In September 2022, Bubbacarr Dukureh, a Gambian national, was murdered by the Military Police in Jardins, an upscale neighborhood in the city of São Paulo. According to his family members, the 28 year old man was unemployed and created the habit of going out for a run¹¹.

“Operation Welcome” and indigenous rights

26. Regarding **paragraphs 175 and 176** of the Brazilian report, which mention Operation Welcome, a federal government humanitarian mission commanded by the Brazilian Army that assists Venezuelan migrants and refugees in Roraima state, it is important to highlight some of our concerns.

27. In 2022, Operation Welcome decided to transfer indigenous migrants, who were previously living in different shelters, to a single large shelter with a capacity for thousands of people. Hundreds of Venezuelan indigenous people did not want to move to the new shelter, alleging that they wanted to live under more dignified conditions and more adapted to their culture, but the Operation gave them no other option. Some of them reported that they suffered threats and psychological abuse¹². This episode also demonstrates that the right of indigenous peoples to Free, Prior and Informed Consent was not respected, since the indigenous migrant population was not previously involved in decisions on the unification of shelters.

28. Finally, another concern is related to the Operation’s Interiorization Program, that interiorizes Venezuelans to other parts of Brazil. The interiorization program was created based on four modalities: social reunion (with friends or acquaintances), family reunion, institutional (shelter-to-shelter) and employment-based. However, these strategies are not included in a national policy of local integration and protection of migrants and refugees, and many people who manage to be interiorized do not have the necessary support to establish themselves socially and economically in the communities of arrival and end up remaining in a situation of extreme vulnerability.

29. Furthermore, there is not an official coordination between the federal executive power, the states, the Federal District and municipalities to give a proper reception and promote local integration of migrants and refugees, since the lack of communication and exchange of information between these

¹¹<https://www1.folha.uol.com.br/cotidiano/2022/10/imigrante-da-gambia-e-morto-em-abordagem-da-pm-nos-jardins-em-sao-paulo.shtml>

¹²<https://www1.folha.uol.com.br/mundo/2021/11/indigenas-venezuelanos-protestam-contra-plano-de-suprimento-em-boa-vista.shtml>

<https://g1.globo.com/rr/roraima/noticia/2022/03/17/venezuelanos-indigenas-acusam-operacao-acolhida-e-acnur-de-ameacar-cortar-comida-caso-nao-troquem-de-abrigo-humilhante.ghtml>

entities makes this process difficult. Therefore, one of the weaknesses of the interiorization program is precisely the lack of monitoring and assistance to interiorized Venezuelans after their displacement.

30. Unfortunately, cases of migrants found in situations of slavery-like abuse are not limited to those described in **paragraph 186** of the Brazilian report. The lack of assistance to interiorized Venezuelans becomes more alarming when it comes to the employment-based modality, since investigations and accusations have shown that many migrants who were victims of work analogous to slave labour have been interiorized by Operation Welcome¹³.

IV. Recommendations

In view of the above informations, the organizations suggest the following recommendations to the Brazilian state:

- Remove illegal sanctions, especially immediate deportations and repatriations and the suspension of asylum requests, from administrative rules published by the government and do not edit new ones with these provisions.
- Do not create sanitary rules that discriminate against specific nationalities.
- In other situations of public calamity, adopt alternative health and sanitary measures, instead of closing borders.
- Guarantee access to Federal Police services throughout the national territory permanently and without interruptions, preventing the demand for regularization from accumulating.
- Approve initiatives such as bill 7876/2017, which determines a migratory amnesty for all migrants in an irregular situation who are in the national territory.
- Guarantee protective measures for migrants and families and friends of migrants victims of violence.
- Ensure that investigations involving racist and xenophobic attacks are quick, immediate, with due and fair compensation to victims and their families.
- Monitor the conditions of the people that were interiorized, especially through the employment-based modality.

¹³<https://brasil.elpais.com/brasil/2021-05-17/ambev-e-heineken-sao-autuadas-por-trabalho-escravo-de-imigrantes-venezuelanos-em-sao-paulo.html>

- Provide better transparency about the interiorization protocols.
- Promote an inspection of the employment-based modality of interiorization, monitored by the Public Labour Prosecution Office (MPT), in order to prevent cases of work analogous to slavery.
- Respect the rights of the migrant indigenous population, especially the free, prior and informed consent principle, according to ILO Convention 169, and ensure lasting solutions that include culturally appropriate housing for them.