

RELIGIOUS RACISM IN BRAZIL

Report submitted to the CERD Committee for the Review of Brazil in 2022.

Brazil, October 24, 2022.



Conectas Direitos Humanos is a civil society organization with the mission to enforce human rights and fight inequalities in order to build a fair, free, and democratic society. Conectas was responsible for organizing this report with the contribution of the organizations and collectives below.



Coletivo de Entidades Negras (CEN) is an entity of the Brazilian black movement that was born in Salvador and expanded its operations to seventeen Brazilian states and three Latin American countries. Entity for social and popular movements, activists, leaders and other civil society organizations that work for the black cause and other relevant social markers.



Criola is a feminist and anti-racist civil association founded and led by black women. Founded in 1992, it works to build a society in which the values of justice, equity and solidarity are fundamental, facing cis-heteronormative patriarchal racism, as well as developing actions aimed at improving the living conditions of the black population, especially of black women, both cis and trans, valuing their social and political insertion so that their presence and contribution are welcomed as good of humanity.



The **Iniciativa Direito à Memória e Justiça Racial** (Right to Memory and Racial Justice Initiative) is an organization that seeks to combat State violence and debate Public Safety in the Baixada Fluminense region (Rio de Janeiro/Brazil) with a focus on racism.



The **Instituto de Defesa da População Negra** (Institute for the Defense of the Black Population) is a non-profit entity organized to champion the complete exercise of citizenship and respect towards the dignity of the black population, offering free legal services to the black, poor, and peripheral peoples.



The **Jeholu Cultural Occupation** (JEHOLU) is a group composed of representatives of African origin religions, specialising in themes associated with different forms of religious, cultural and social expression, working with policies of access, incidence and fight against racial violence applied to Afro-Brazilian and traditional African religions, between forms of action and research.



The **Justiça Global** (Global Justice) is a civilian association dedicated to the promotion of social justice and human rights through research, training and the elaboration of materials on the status of human rights in Brazil; its institutional goals include the submission of complaints to regional and universal human rights protection systems.

Introduction:

This report will focus on protecting freedom of religion and belief and combating religious racism. Starting from a reality of stigmatization and discrimination against religions of African origin as a recurrent practice in Brazil, this document aims to contribute to the presentation of relevant information for the evaluation of Brazil by the CERD and also influence the recommendations that the Committee can make to the Brazilian State so that the country makes a more significant commitment to guarantee and protect the right to freedom of religion and belief of excluded groups, whose right is systematically violated.¹

According to the Universal Declaration of Human Rights (Article 18), everyone has the right to freedom of thought, conscience, and religion. This right implies the freedom to change his religion or belief and manifest it alone or in community with others and in public or private, through teaching, practice, worship, and rites. However, several studies, reports and official records denounce a reality of systematic discrimination against African origin peoples and traditional communities in Brazil in exercising their faith.²

The non-recognition of African-origin religions, an expression of structural racism in the country, translates into violent practices. The break-ins, destruction, and arson of ceremonial temples (namely "terreiros") and other places of worship and the persecution and murder of community and religious leaders linked to these sacred territories. These actions foment other forms of racist violence against the ways of being and produce the culture of these populations. Such acts of violence against religions of African origin are of State responsibility and competence, insofar as contrary to its duty to guarantee the free expression of faith and religiosity of all people, it exposes this specific religious group to a constant state of threat and danger.

¹ It is worth mentioning that the United Nations has already been notified on other occasions by civil society organizations in Brazil, some of which sign this document, such as the Coletivo de Entidades Negras (CEN), about the seriousness of the problem experienced by religious of denominations and specific cults, such as those of African origins. See for example:
[ps://jornalistaslivres.org/coletivo-de-entidades-negras-denuncia-violacoes-de-liberdade-religiosa-durante-consulta-tematica-da-onu-na-argentina/](https://jornalistaslivres.org/coletivo-de-entidades-negras-denuncia-violacoes-de-liberdade-religiosa-durante-consulta-tematica-da-onu-na-argentina/)

² SILVA NETO. José Pedro da. Caderno de Debates e Cartilha: Povos e Comunidades Tradicionais de Matriz Africana. 1. Ed. PNUD/ONU/SECOMT/SEPPIR/Ministério da Justiça e Cidadania, Brasília, 2016. e SILVA NETO. José Pedro da. Povos e Comunidades Tradicionais de Matriz Africana: visgo para combater o racismo. In Centro Sérgio Buarque de Holanda. No. 12, ano 13, maio 2019. p. 91 a 120.

In this report, the organizations that sign it review the points corresponding to the rights and guarantees recognized in the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Brazil in 1969. It focuses on the guarantee of the freedom of religion and belief of practitioners of religions of African origin in the country, pointing out the status of compliance with the commitments assumed in the fight against racial discrimination. Articles 1, 5 and 6 are specifically evaluated, which deal with the definition of racial discrimination, equality of civil and political rights, economic, social and cultural rights and the right to effective remedies in the face of racial discrimination (access to justice).

In relation to **Article 1 - Definition of racial discrimination**

Although Brazilian legal provisions have embraced part of the doctrine of international law through decrees and treaties that conceptualize racial discrimination, as is the case of **Decree No. 65,810**, of December 8, 1969, which enacts International Convention on the Elimination of All Forms of Racial Discrimination (1968), and in which it is stated (Article 1, item 1) that “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life; we cannot say that the understanding of discrimination, in general, is adequately reflected in Brazilian public policies.

In addition to the aforementioned, we can also observe the text provided in **Decree No. 10,932, of January 10, 2022**, which enacts the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance adopted by the Federative Republic of Brazil, in Guatemala, on June 5, 2013, which delimits the following scopes of racial discrimination, namely:

“1. Racial discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and

fundamental freedoms enshrined in the international instruments applicable to the States Parties.

Racial discrimination may be based on race, color, lineage, or national or ethnic origin.

2. Indirect racial discrimination shall be taken to occur, in any realm of public and private life, when a seemingly neutral provision, criterion, or practice has the capacity to entail a particular disadvantage for persons belonging to a specific group based on the reasons set forth in Article 1.1 or puts them at a disadvantage, unless said provision, criterion, or practice has some reasonable and legitimate objective or justification under international human rights law.

3. Multiple or aggravated discrimination is any preference, distinction, exclusion, or restriction based simultaneously on two or more of the criteria set forth in Article 1.1, or others recognized in international instruments, the objective or result of which is to nullify or curtail, the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties, in any area of public or private life.

4. Racism consists of any theory, doctrine, ideology, or sets of ideas that assert a causal link between the phenotypic or genotypic characteristics of individuals or groups and their intellectual, cultural, and personality traits, including the false concept of racial superiority.

Racism leads to racial inequalities, and to the idea that discriminatory relations between groups are morally and scientifically justified.

All the theories, doctrines, ideologies, and sets of racist ideas described in this article are scientifically false, morally reprehensible, socially unjust, and contrary to the basic principles of international law; they therefore seriously undermine international peace and security and, as such, receive the condemnation of the States Parties.”

Both Conventions are an important basis, supported by international law, for the elaboration of legislation and formulation of public policies constituted from pillars that recognize racism as structural and structuring of the dynamics that still restrict the freedom of religion and belief of the terreiro peoples. They are also relevant resources for promoting

the proper literacy of Brazilian society about racial discrimination, a situation that has not occurred to date.

It is also possible to observe that the understanding of ethnic and racial discrimination and how it should be faced, including discrimination based on religion and belief, is present in several other laws and international agreements, as follows:

- On provisions of Art. 18 of the Universal Declaration of Human Rights (1948); the Art. 18 of the International Covenant on Civil and Political Rights (1966); General Comment 22 by the Human Rights Committee (1993); the United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief (1981) and the Beirut Declaration on Faith for Rights (2017), which address freedom of thought, conscience and religion or belief.
- The United Nations Conference on Environment and Development of 1992, the Convention on Biological Diversity (CBD), which proposed measures to ensure the conservation of biodiversity and its sustainable use, and Convention 169 on Indigenous and Tribal Peoples of the International Labor Organization (ILO) in 1989, enacted by Presidential Decree No. 5,051, of April 19, 2004, which establishes in its Art. 2, item 1 that: "Governments shall assume the responsibility of developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and guarantee respect for their integrity."
- The Universal Declaration on Cultural Diversity approved at the 31st General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), in 2002, establishes cultural rights as a framework for cultural diversity, as well as human rights as a guarantee of cultural diversity, with priority to the so-called minorities and indigenous peoples.
- The Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted at the UNESCO General Conference, at its 33rd meeting, held in Paris from 3 to 21 October 2005, aims to protect and promote cultural expressions, with evidence in the relations between culture and development, as well as in the recognition and respect for cultural goods as carriers of identities, values, and meanings.

In addition, and specifically, with regard to religious racism, which operates as a mechanism for maintaining discriminatory violence, we can mention the Human Rights Council Resolution 16/18 of 2011 on combating intolerance, negative stereotypes, stigmatization, discrimination, incitement to violence and violence against persons based on religion or belief and the Rabat Plan of Action 2012, which prohibits defense of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and seeks the international protection of freedom of religion or belief and the fight against hatred and intolerance against minority and stigmatized religions.

However, when it comes to society and its understanding of racial discrimination in Brazil, the absence of an educational culture focused on respect for beliefs, especially non-hegemonic beliefs, is evident. The intolerant speech towards religions of African origin is a recurrent practice, potentiated in recent years by government policies based on conservative speeches, preferably Christian, that promote discrimination and violence. It is possible to see cases of discrimination carried out and/or promoted by relevant public figures. Recently, for example, the Brazilian First Lady, Michelle Bolsonaro, made a direct association of African religions with “darkness”.³

It is also important to emphasize that one of the reasons for the growth of racist religious intolerance against religions of African matrix is related to political aspects of power dispute, which contribute to such a scenario. The growth of some expressions of Christian fundamentalism and its entrenchment in national political instances are related to this phenomenon.⁴

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

³ Michelle shares a video against Lula who associates African religions with 'darkness' and says: 'This can, right?' The video shows a meeting between PT and Umbanda and Candomblé leaders. Available at: <https://www1.folha.uol.com.br/colunas/monicabergamo/2022/08/michelle-compartilha-video-contra-lula-que-associa-religioes-africanas-a-trevas-e-diz-isso-can-ne.shtml> Accessed on 8/24/2022.

⁴ 'NEOPENTECOSTALISM, HATE AND INTOLERANCE AGAINST AFRO BRAZILIAN RELIGIONS: VIOLATIONS OF RIGHTS, STATE OMISSION AND RESISTANCE ACTIONS', signed by CEN, and filed in 2019, during an activity with the Special Rapporteur on Freedom of Religious or Belief, Ahmed Shaheed, in Buenos Aires, Argentina.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law without distinction of race, colour or national or ethnic origin, mainly in the enjoyment of civil, political and social rights.

Nevertheless, in Brazil, civil, political, social, economic and cultural rights are historically denied to black and indigenous populations. On access to basic sanitation, for example, the study “Public Sanitation Services in Salvador(BA): A study on Access Inequalities” (Boja, 2015) examines access to public sanitation services in Salvador in the state of Bahia. This study verified that, despite the constant investment of the public sector in the area, the problems of access to sanitation services and socio-spatial inequality have not yet been overcome. For this, two factors are associated: social class and race. In regions where the higher-income white population is concentrated, the access rate is satisfactory, while in areas of black and poor concentration is higher, the condition of basic sanitation is worse.

Specifically, about people who practice religions of African origin in Brazil, it is possible to affirm that they do not fully enjoy their political, civil and social rights, despite the obligations that the Brazilian State should fulfil, about the text of Decree No. 10932, of January 10, 2022, of the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance already mentioned. In Art. 4, it expresses that “The states undertake to prevent, eliminate, prohibit, and punish, in accordance with their constitutional norms and the provisions of this Convention, all acts and manifestations of racism, racial discrimination, and related forms of intolerance”

Several news reports denounce the violence committed against these peoples:

1. Brazil registers three complaints of religious intolerance per day in 2022; the total already reaches 545 in the country.⁵
2. Religious racism: A Candomblé house is attacked in Maranhão.⁶

⁵ Brazil registers three complaints of religious intolerance per day in 2022; the total already reaches 545 in the country. Available:

<https://g1.globo.com/sp/sao-paulo/noticia/2022/07/22/brasil-registra-tres-queixas-de-intolerancia-religiosa-por-dia-em-2022-total-ja-chega-a-545-no-pais.ghtml>

⁶ Religious racism: A Candomblé house is attacked in Maranhão. Available:

<https://www.brasildefato.com.br/2022/05/03/racismo-religioso-casa-de-candomble-e-atacada-no-maranhao>

3. An unprecedented survey on religions of African origins in the country shows that 78.4% of Brazilian Pai and Mãe de Santo have already been the target of violence.⁷
4. Mothers who practice religions of African origin lose custody of their children.⁸
5. Man invades terreiro and destroys images of orixás in the Federal District.⁹
6. Prayer houses burned down in Kaiowá and Guarani community.¹⁰

The referred violence affects, especially, spaces of worship of African matrix installed in peripheral urban areas of large cities, where there are reports that organized crime and drug trafficking have allied themselves with agents who, invoking neo-Pentecostal values, act as disseminators of hate speech against religions of African origin.¹¹

The cases of intolerance and violence against groups due to their religion are recognized and denounced nationally and internationally. Despite this, the daily routine of persecution, violence and discrimination suffered by people and communities of African origin demonstrates that there is still a long way to go in the struggle for the promotion and respect of the human rights of people of African descent, as well as for the full exercise of freedom of religion and belief for terreiro communities in the country.

Among the recommendations made to Brazil in the 3rd Cycle of the Universal Periodic Review with respect to cult discrimination, the need to reduce inequalities is

⁷ 78.4% of Brazilian Pai and Mãe de Santo have already been the target of violence. Available: <https://www.correiobraziliense.com.br/brasil/2022/09/5034646-784-ja-foram-vitimas-de-intolerancia-religiosa-em-terreiros-mostra-pesquisa.html>

⁸ Mothers who practice religions of African origin lose custody of their children. Available: https://andi.org.br/infancia_midia/casos-de-perda-de-guarda-de-criancas-por-maes-praticantes-de-religoes-d-e-matriz-africana-alarmam-especialistas/

⁹ Man invades terreiro and destroys images of orixás in the Federal District. Available: <https://www.brasildefato.com.br/2022/03/24/homem-invade-terreiro-e-destroi-imagens-de-orixas-no-distrito-federal>

¹⁰ Prayer houses burned down in Kaiowá and Guarani community . Available: https://www.kunangue.com/_files/ugd/c27371_b2d7f59494b140cbbf59866252dc5ca1.pdf

¹¹On this subject, see: 1) NASCIMENTO, Wanderson Flor do. O Fenômeno Do Racismo Religioso: Desafios para os povos tradicionais de Matrizes Africanas. In: Revista Eixo. Brasília-DF, v. 6, n. 2 (Especial), novembro de 2017. 2) SILVA, Vagner Gonçalves da. Intolerância religiosa: impactos do neopentecostalismo no campo religioso afro-brasileiro. Edusp, 2007; 3) GUALBERTO, Marcio Alexandre M. Mapa da Intolerância Religiosa – Violação ao Direito de Culto no Brasil. Associação Afro-brasileira Movimento de Amor ao Próximo (Aamap). Rio de Janeiro, 2011. 4) ARAUJO, Patrício Carneiro. Entre Ataques e Atabaques: intolerância religiosa e racismo nas escolas. São Paulo: Arché, 2017. 5) RODRIGUES, Ozaias Silva. O candomblé sob a mira do racismo e do terrorismo religioso: ataques, categorias e identidades reinventadas. Revista Docência e Cibercultura, v. 5, n. 2, p. 51-72, 2021.

expressed, through the recognition of the importance of the protection of culture and worship of African origin, namely: *“60. Continue putting in place measures aimed at preventing violence and racial discrimination against Afro-Brazilians and protecting their cultural heritage sites and places of worship.”*

The Durban Declaration (2001), a result of the II World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban (South Africa), signed by Brazil, became a relevant guidance document for the recognition of the centrality of the racial struggle in the public debate and for the implementation of public policies to combat racism and discrimination in the country.

It is important to emphasize that respect for religious pluralism is directly related to peace and security, the possibility for people of different faiths to coexist in a world of diversity, as well as real access to full citizenship, the exchange of learning and, above all, the maintenance of equality.¹² The search for freedom of thought, conscience, religion or belief is one of the characteristics of societies that mobilize for equity and seek the complete protection of human rights. Investment in policies that include this agenda is essential for maintaining democracy.

The Constitution of the Federative Republic of Brazil of 1988 in its Fundamental Principles in Art. 3, item IV: “to promote the good of all, without prejudice of origin, race, sex, colour, age, and any other forms of discrimination. It is based on this constitutional commitment, and on the claim of international commitments made before the international community, that laws have been approved and some discussions involving the rights of the black population and terreiro peoples have been promoted in the Brazilian public space.

The following public and normative policies are worth mentioning:

- The Programa Nacional do Patrimônio Imaterial [National Intangible Heritage Program] (PNPI), established by Federal Decree No. 3,551, of August 4, 2000, which aims to implement a policy for the inventory, registration and safeguarding of cultural assets of an intangible nature.

¹² Shaheed, Ahmed. Protegendo e promovendo o direito à liberdade de religião e crença para todos. Desafios e oportunidades. SUR 29 - v. 16 n. 29 - 43-51. 2019. Disponível em: <https://sur.conectas.org/wp-content/uploads/2019/12/03-sur-29-portugues-ahmed-shaheed.pdf> Acesso em: 24/08/2022.

- The Curriculum Guidelines for the Education of Ethnic-Racial Relations and the Teaching of Afro-Brazilian and African History and Culture, and Federal Laws No. 10,639/2003 and 11,645/2008, which established the mandatory teaching of content related to Afro-Brazilian, African, and indigenous culture and history.
- The Law No. 12,288, of July 20, 2010, which establishes the Statute of Racial Equality; amends Laws No. 7,716 of January 5, 1989; 9,029 of April 13, 1995; 7,347 of July 24, 1985, and 10,778 of November 24, 2003, which provides for the rights of belief:

“CHAPTER III

ON THE RIGHT TO FREEDOM OF CONSCIENCE AND BELIEF AND TO THE FREE EXERCISE OF RELIGIOUS CULTS Art. 23.

Art. 23. The freedom of conscience and belief is inviolable, and the free exercise of religious cults is guaranteed and, in accordance with the law, the protection of places of worship and their liturgies is guaranteed.

Art. 24. The right to freedom of conscience and belief and the free exercise of African-origin religious cults includes:

I - the practice of cults, the celebration of meetings related to religiosity and the foundation and preservation, by private initiative, of places reserved for such purposes.

II - the celebration of festivities and ceremonies by the precepts of the respective religions.

III - the foundation and maintenance, by private initiative, of charitable institutions linked to the respective religious convictions.

IV - the production, commercialization, acquisition and use of religious articles and materials suited to the customs and practices based on the respective religiosity, except for conduct prohibited by specific legislation.

V - the production and dissemination of publications related to the exercise and dissemination of religions of African origin.

VI - the collection of financial contributions from natural and legal persons of a private nature for the preservation of the religious and social activities of the respective religions.

VII - access to bodies and means of communication for the dissemination of the respective religions.

VIII - communication to the Public Prosecutor's Office for opening a criminal action in the face of attitudes and practices of religious intolerance in the media and any other places.

Art. 25. Religious assistance is guaranteed to practitioners of religions of African origins interned in hospitals or other institutions of collective detention, including those subjected to a custodial sentence.

Art. 26. The public power will adopt the necessary measures to combat intolerance towards religions of African origins and discrimination against their followers, especially with the objective of I - curbing the use of the media for the dissemination of propositions, images or approaches that expose a person or group to hatred or contempt for reasons based on the religiosity of African origins.

II - inventory, restore and protect documents, works and other assets of artistic and cultural value, monuments, springs, flora, and archaeological sites linked to religions of African origins.

III - ensure the proportional participation of representatives of religions of African origins, alongside the representation of other religions, in commissions, councils, bodies and other decision-making bodies linked to the public power."

- The I National Plan for the Sustainable Development of Traditional Peoples and Communities of African Matrix (2013-2015).
- In addition to Law n°9.459 of 2017, which defines crimes resulting from race or color prejudice, and adds a paragraph to art. 140 of Decree-law n° 2.848, of December 7, 1940, instituting racial discrimination practices as a crime, "Art. 1º The crimes resulting from discrimination or prejudice of race, color, ethnicity, religion or national origin will be punished, according to the form of this Law." and "Art. 20. To practice, induce or incite discrimination or prejudice of race, color, ethnicity, religion or national origin." Also noted is Decree No. 6040 of February 7, 2007, which institutes the National Policy for Sustainable Development of Traditional Peoples and Communities.

Article 6 - Access to justice

In May 2019, the UN General Assembly approved the resolution proposed by Poland, establishing 22 August as the International Day Commemorating the Victims of Acts of Violence Based on Religion or Belief, in which "Strongly condemning continuing violence and acts of terrorism targeting individuals, including persons belonging to religious minorities, on the basis of or in the name of religion or belief, and underlining the importance of a comprehensive and inclusive community-based preventive approach, involving a wide set of actors, including civil society and religious communities". In proclaiming an international date, the General Assembly recalls that States have a primary responsibility to promote and

protect human rights, including those of religious minorities and their right to freely exercise their religion or belief.

However, despite the international commitments made by Brazil, of the secular state established in its Federal Constitution (1988), which states in Article 5, item VI, that "freedom of conscience and belief is inviolable, the free exercise of religious services is guaranteed, and the protection of places of worship and their liturgies is ensured by law," and of the obligations arising from this, there is a long history of violence perpetrated against the rights of the people of religions of African matrix by organs of the justice system.

We highlight the following episodes, which have been recurrent:

- Cases that overlap freedom of religious expression to the detriment of the practice of belief-based hate speech, such as lawsuits in relation to conduct practiced by religious representatives;¹³
- Violence caused by agents of the justice system against spaces and/or people from traditional African descendent peoples and communities;¹⁴
- Depredations caused by the population against symbols of religions of African origins published on social networks;¹⁵
- Religious prejudice and cases of discrimination practised by the media;¹⁶
- Cases in which electricity supply services are denied to people or spaces of traditional peoples and communities of African origin;¹⁷
- Cases in which people from traditional peoples and communities of African origin are verbally assaulted in public spaces;¹⁸
- Cases that attest to the denial of the right of Afro-Brazilian denominations to access justice, such as in 2018, when a report published by the Federal Government and Ministry of Human Rights, according to data from Dial 100, found that every 15 hours

¹³ [RECURSO ESPECIAL Nº 1892702 - PR \(2020/0221860-0\)](#), [Apelação Cível nº 1050987-63.2020.8.26.0053](#), [MEDIDA CAUTELAR Nº 10.117 - SP \(2005/0082437-4\)](#)

¹⁴ [Representação Criminal/notícia de Crime nº 2194224-69.2021.8.26.0000](#)

¹⁵ [HABEAS CORPUS Nº 389.918 - PB \(2017/0041299-4\)](#)

¹⁶ [PEExt no RECURSO EM HABEAS CORPUS No 117539 - PR \(2019/0264073-8\)](#), [HABEAS CORPUS Nº 424402 / RJ \(2017/0291635-7\)](#)

¹⁷ [Apelação Cível nº 0038048-06.2017.8.19.0203](#)

¹⁸ [APELAÇÃO CRIMINAL Nº 0000709-12.2015.8.19.0032](#)

a religious temple, especially Afro-Brazilian religions, suffers example of religious discrimination, manifested through verbal and physical aggression, torture of priests, depredation of temples, etc.¹⁹

According to Thiago Amparo²⁰, legal disputes within the scope of hate speech, religious teaching, politics and religion, among others, show that for a portion of the legal discourse, individual freedoms regarding religion are no longer seen as restricted to the private sphere, but must permeate public debate, whether based on laws or their application.

Thus, debates involving access and application of justice in cases that touch on the practices and free exercise of faith of religions of African origin undergo a growing tension between hegemonic religions and minority religions in Brazil, which ends up impacting the construction of applicable legal norms to all religious expressions. Many cases reflect the historical struggle of the terreiro people for equality and non-discrimination in the face of Brazilian justice:

Since 2016, the constitutionality of the sacralization of animals in religious services - a common practice in some religions of African matrix, such as candomblé - had been in dispute in the Supreme Court; at the time, the Public Prosecutor's Office of the State of Rio Grande do Sul filed Extraordinary Appeal (RE) 494601, which discussed the validity of state law 12.131/2004. Judged by the STF in 2019, RE 1096915/SP unanimously determined the constitutionality of the practice.

In recent decades, people linked to traditional peoples and communities of African origin managed to occupy some institutional spaces in Brazil, which made it possible, together with a constant and strong action of civil society, to influence State actions in favour of less discriminatory practices. Several actors in society have worked tirelessly to

¹⁹Religious intolerance: in the DF, complaints still do not represent the scale of symbolic violence. Available: <https://agenciadenoticias.uniceub.br/cidadania-e-diversidade/intolerancia-religiosa-no-df-denuncias-ainda-na-o-representam-o-tamanho-da-violencia-simbolica/> <http://www.mdh.gov.br/disque100/balanco-2017-1>

²⁰ Thiago Amparo and Denise Dora, "Preliminary report: Mapping of legal tensions over freedom of expression and religion in Brazil" (unpublished, 2020).

provide spaces for institutional dialogue, aiming, in some way, to protect the debate in defense of people who are part of traditional communities of African origin.

In this sense, Resolution No. 440/2022 of the Brazilian National Council of Justice instituted the National Policy for the Promotion of Religious Freedom and Combating Intolerance within the Brazilian Judiciary, establishing as one of its principles the adoption of administrative measures that guarantee freedom of religious in the institutional environment, including an incentive to tolerance and religious pluralism among its members, servants, collaborators and the general public, without compromising the jurisdictional provision and administrative routines (item IV of Art. 3).

It is also important to note the negative impact of some State actions that threaten the principle of secularism, specifically Art. 19 of the Brazilian Federal Constitution, in which:

Art. 19 - The Union, the States, the Federal District and the Municipalities are forbidden:

- I - to establish religious cults or churches, to subsidize them, to hinder their operation, or to maintain with them or their representatives relations of dependence or alliance, except, in the form of the law, for collaboration in the public interest;
- II - refusing faith to public documents;
- III - creating distinctions between Brazilians or preferences among them.

The following are some examples of concrete situations where the secularity of the Brazilian State has been threatened:

- 1) the Agreement between the Government of the Federative Republic of Brazil and the Holy See concerning the Legal Statute of the Catholic Church in Brazil, signed in Vatican City, on November 13, 2008, approved by Legislative Decree No. 698, of October 7, 2009, and promulgated by Decree No. 7,107, of February 11, 2010;
- 2) the judgment of the Federal Supreme Court of 2017, which dismissed the Direct Action of Unconstitutionality No. 4,439, proposed by the Attorney General's Office against excerpts from the Law of Guidelines and Bases for Education and the agreement signed between Brazil and the Holy See.

It is important to note the inertia, omission, and co-participation of the federal government in campaigns of religious intolerance promoted by radio and TV stations, resulting from the fact that the religious segments responsible for such programs have congressional seats in the National Congress, with accusations indicating the possibility that they are related to criminal organizations infiltrated in the public machine, as widely reported by the media in recent years.²¹

Recommendations:

The organizations that subscribe to this document have shown that religious racism is present and increasing in practice in Brazilian society. Recognizing that it continues to be an obstacle to the full realization of human rights, they would like to call the attention of the UN Committee on the Elimination of Racial Discrimination (CERD) to demand from the Brazilian State a firm commitment to the promotion and full respect of human rights of people of African descent, dedicating special attention to the protection of freedom of religion and belief and the fight against religious racism.

The following recommendations are based on an assessment of the reality of systematic human rights violations experienced in Brazil, which is also present in other States. Regarding the fight against religious racism, the following aspects should be considered in the review that will be carried out, as well as in the recommendations that the Committee sends to the country.

- a) Reinforce that Brazil commit itself to the creation and implementation of an anti-discriminatory policy for traditional religions of African matrix and that spaces and mechanisms be created to fully guarantee the right to worship of their participants. It is essential that the civil society that makes up the debate related to religions of African matrix be summoned to this process.
- b) The public policy to be formulated and adopted must provide the protection, preservation and safeguarding of religious temples and cultural spaces of African origin and provide for the creation, implementation and preservation of specialized

²¹ Milícias do Rio se articulam cada vez mais com prefeituras e casas legislativas, aponta estudo. Disponível em: <https://brasil.elpais.com/brasil/2020-10-26/milicias-do-rio-se-articulam-cada-vez-mais-com-prefeituras-e-casas-legislativas-aponta-estudo.html>. Accessed on: October 24, 2022.

centers for the care and combat of religious violence in the three spheres of competence, namely: municipal, state and national, aimed exclusively at the public that makes up the population of traditional communities of African origin and the African religious cult.

c) Create mechanisms that guarantee the right to religious assistance for people of African matrix, the access of priests in public organs such as prisons, hospitals, and the like, as well as the recognition of their rites and knowledge for the exercise of the same.

d) It is recommended to the Brazilian State the creation of a national observatory of public policies directed to the religions of the traditional peoples of African matrix, as well as the creation of the Ministry of Promotion of Racial Equality, structured with a specific sector destined to combat religious racism;

e) Public policies, which include the development of projects, for the strengthening, protection, care, and cataloging and registration of sacred items that are inscribed in the protection of memory and of the rights and preservation of the cultural and intangible heritage existing in the houses of religious worship of African origin.

f) In the context of anti-racist educational policies, strengthening the Curriculum Guidelines for the Education of Ethnic-Racial Relations and the Teaching of Afro-Brazilian and African History and Culture, as well as reviewing and strengthening the policies for the implementation of Federal Laws No. 10,639/2003 and 11,645/2008, specifically, about overcoming religious racism against religions of African origin in Brazilian society.

g) In addition, the guidelines and implementation of these laws must combat, through pedagogical projects, the uncritical conception of secularism that subsidizes the erasure of black culture in education and promotes persecution and violence of a Christian fundamentalist nature inside and outside school.

h) Recommend that Brazil convene civil society, including organizations, researchers, public managers, and authorities of traditional religions of African origin to produce statistical data, research, indicators and correlates that aim to promote the defense of the rights of religious worship and the physical and cultural integrity of spaces intended for the worship of traditional peoples and communities of African origin and direct combat against religious racism.

i) Recommend to the Brazilian State the observance of punishments for public concessionaires, linked or not to other religious denominations, such as neo-Pentecostal churches, reinforce negative aspects of Afro-Brazilian religions because it contributes to serious injury to freedom of worship and religion. In this sense, the Brazilian State may be urged to reevaluate the permanence of the public concession for sound and image broadcasting services to media systems that verbally, imagistically, socially, and politically attack these religions, in accordance with the provisions of article 223 of its Federal Constitution.

j) Recommend the elaboration, by the Brazilian State, of a monitored program of land regularization of religious temples of African origin, relegated to poor and irregular territories due to the characteristics of structural racism that affect them. As well as the recommendation of universalization of IPTU tax immunity, already applied to neo-Pentecostal Protestant churches, for Afro-Brazilian temples.

Annexes

List of organizations that subscribe to the report with contact information.

Conectas Direitos Humanos

Contacts: conectas@conectas.org / www.conectas.org

CEN - Coletivo de Entidades Negras

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Criola

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Iniciativa Direito à Memória e Justiça Racial

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Instituto de Defesa da População Negra

Contact : contato@institutodpn.org / <https://institutodpn.org/website/>

Ocupação Cultural JEHOLU

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