

*Committee against Torture*

REFERENCE: Follow-up/CAT – Brazil

24 January 2025

Excellency,

In my capacity as Rapporteur for Follow-up to Concluding Observations of the Committee against Torture, I have the honor to refer to the follow-up to the examination of the second periodic report of Brazil, in accordance with the Guidelines for follow-up to concluding observations (CAT/C/55/3).

At the end of its 76<sup>th</sup> session held from 17 April to 12 May 2023, the Committee transmitted its concluding observations to your Permanent Mission. The Committee's concluding observations (CAT/C/BRA/CO/2, para. 51) requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 18 (b), 22 (c), 24 (b) and 34 (a) of the concluding observations.

On behalf of the Committee, allow me to express appreciation for your letter of 14 August 2024 providing your Government's response to the above-mentioned paragraphs (CAT/C/BRA/FCO/2) and to make the following comments:

Use of excessive force by law enforcement and military officials (para. 18 (b) of the Committee's concluding observations)

While noting the steps that have been taken by the State party to revise and update regulations and frameworks governing the use of force, to align the guidelines and manuals for the training of all relevant law enforcement and security officials with international standards, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and to develop transparency measures to enhance accountability within police force, the Committee is concerned that challenges remain in the implementation and enforcement of the above-mentioned measures. While training programs have been implemented, the Committee notes that no information has been provided on the effectiveness of the trainings and whether they are uniformly applied across all law enforcement agencies. The Committee is also concerned that, despite the measures taken to prevent excessive use of force by the police, reports continue to indicate a high rate of police lethality. While an electronic panel for police lethality oversight and the Ministry of Justice and Public Security's National Body Camera Project are positive steps, no information has been provided on their effectiveness in ensuring accountability and reducing excessive use of force. With regard to racial equality standards, the Committee welcomes the inclusion of the Ministry of Racial Equality in the working group responsible for reviewing the current regulations on the use of force by public security officers. However, the Committee is concerned that insufficient information has been provided on the adequacy of the protocols to effectively address potential racial bias (2/B2).

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Conditions of detention (para. 22 (c) of the Committee's concluding observations)

While taking note of the establishment of new policy and legal frameworks, the improvement of infrastructure and the alignment of national policies with international standards to address the issue of separation between persons in pretrial detention and those serving sentences, as well as the strict separation between women's and men's wings in detention facilities, the Committee expresses concern about persistent problems that could hinder full compliance with international standards, such as overcrowding, which remains a barrier to ensuring the strict separation between pre-trial detainees and convicted prisoners; the lack of effective separation of male and female inmates in mixed-sex facilities; the specific institutional and administrative challenges faced by each Federal State in complying with the laws and guidelines and implementing them uniformly across the country; and the lack of systematic data collection and public reporting for effective monitoring of facilities. The Committee points out that the fact that the Supreme Federal Court, in its judgment in the case of the Allegation of Disobedience of Fundamental Precept (ADPF) No. 347 of October 2023, found the existence of unconstitutional conditions in the prison system underscores the structural problems that could undermine compliance with and full implementation of separation protocols (2/B2).

Juvenile justice (para. 24 (b) of the Committee's concluding observations)

While noting the commitment of the State party to align its juvenile justice system with international standards through comprehensive legal frameworks, policies, national plans, strategies, initiatives, and adequate training for the personnel involved in the detention of children in conflict with the law, as well as the efforts undertaken to ensure that detention facilities meet international standards of sanitation, hygiene, safety and education, the Committee is concerned that structural problems, such as overcrowding, remain an issue in some regions, and that some youth detention facilities in under-resourced areas of the country reportedly still suffer from inadequate living conditions and educational opportunities. The Committee commends the State party's focus on rehabilitation programs and commitment to the principle that detention should be used as a measure of last resort. However, it is concerned that the implementation of these socio-educational and rehabilitation programs is uneven across the country, both in terms of availability and quality, and that, although alternatives to detention exist, they are not yet applied effectively and uniformly. Moreover, while commending the launch of the National Socio-Educational Assistance Plan (PNAIS) which mandates regular inspection of facilities, and the fact that the Ministry of Justice and Public Security has adhered to the guidelines set by the United Nations Convention on the Rights of the Child, committing to separate adolescents from adults in detention centers and investing in the training and development of staff at these facilities, the Committee regrets the lack of information provided on any concrete measures taken to ensure effective implementation of these recommendations (2/B2).

National preventive mechanism (para. 34 (a) of the Committee's concluding observations)

While noting the important steps taken by the State party to establish a network of preventive mechanisms in all states and acknowledging the efforts made in this regard through legislative, financial and institutional measures, the Committee is concerned that the recommendation has not been fully implemented and that further efforts are needed. While noting the establishment through legislation of both State Committees and State Mechanisms for the Prevention and Combat of Torture in 17 out of the 27 federated entities, the Committee notes with regret that both components are fully operational in only six states. The Committee welcomes the increase in budgetary support for the National Preventive Mechanism (MNPCT) in 2023. However, it is concerned about reports that functional and operational independence of torture preventive mechanisms remains a challenge in most states and at the Federal level. Currently, four of the 11 experts on the Federal NPM are still

awaiting selection and appointment, which has significantly affected the Mechanism's capabilities. Furthermore, the Committee considers that the information provided by the State is unclear as to whether all established bodies have unrestricted access to all places of deprivation of liberty and the autonomy to act in accordance with their monitoring mandate and in conformity with the Optional Protocol to the Convention (2/B1).

Implementation plans (para. 51 of the Committee's concluding observations)

Lastly, the Committee regrets that the State party has not provided information about its plans for implementing, within the reporting period, some or all of the remaining recommendations included in its concluding observations (C).

The Government of Brazil is encouraged to provide additional information, if there is any, which would further contribute to the Committee's analysis of the progress made regarding the specific issues of concern cited above. This additional information may be provided in any subsequent report by the State party pursuant to the Committee's request in its concluding observations on the second periodic report of Brazil, or other future periodic reports.

The Committee looks forward to a continued constructive dialogue with the authorities of Brazil on the implementation of the Convention.

Accept, Excellency, the assurances of my highest consideration.



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Committee against Torture