



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

List of issues in relation to the third periodic report of Brazil*

I. General information

1. Please provide information on the mechanisms in place to assess the compatibility of draft laws and policies proposed at the federal and state levels with the State party's obligations under the Covenant. Please also provide information on:

(a) The status of implementation of the National Human Rights Programme, mentioned in paragraph 25 of the State party report (E/C.12/BRA/3), and of the 2019–2021 Human Rights Action Plan, as well as on the system in place for monitoring the Programme's results;

(b) Any steps taken with regard to the measures and actions implemented by the State party that have been signalled by the National Human Rights Council as being incompatible with the objectives of the National Human Rights Programme;

(c) The complaints of alleged violations of Covenant rights received by the National Ombudsman for Human Rights mentioned in paragraph 50 of the State party report, including statistical data on outcomes and on redress provided to victims.

2. Please explain the challenges faced by the State party in preventing deaths due to the coronavirus disease (COVID-19) pandemic, in spite of the measures taken. Please provide information on corrective actions taken, especially with regard to prevention. Please also provide information, including data, where available, on:

(a) The socioeconomic impact of the COVID-19 pandemic on different sectors of society, particularly low-income households and persons working in the informal economy;

(b) The impact of specific measures taken to protect groups such as lesbian, gay, bisexual, transgender, queer and intersex persons, members of *Quilombola* communities and other traditional communities and indigenous peoples from the health and economic crises arising from the COVID-19 pandemic.

3. With regard to business and human rights, please provide information on:

(a) The impact of the implementation of Decree No. 9,571/2018 of 21 November 2018 and an update on the development of a national action plan on business and human rights;

(b) Steps taken to require businesses domiciled in the State party to exercise human rights due diligence in their operations and to hold them accountable for violations of the rights under the Covenant, including instances of environmental degradation, resulting from their operations in the State party and abroad. Please provide examples of cases where business entities have been held accountable for human rights violations;

* Adopted by the pre-sessional working group at its sixty-eighth session (8–12 March 2021).



(c) Remedies provided to victims of human rights violations resulting from business activities and the systems that are in place to document and collect information on such cases. Please give examples, including an update on the reparations provided to the victims of the collapse of the Córrego do Feijão dam.

4. Please provide information on the measures taken to prevent killings of defenders of economic, social and cultural rights, including those from indigenous communities, to prosecute perpetrators of such killings and to address the rising number of death threats being made against community leaders. Please also indicate the measures taken to improve the effectiveness of the National Programme for the Protection of Human Rights Defenders and the legal framework for the protection of human rights defenders.

5. Please explain which measures are being taken or planned to reach the environmental targets set for 2021 in State party's National Policy on Climate Change, given the rising levels of deforestation and carbon emissions, the weakened capacity of the environmental agencies and the regulatory framework and the lack of enforcement of environmental laws. Please also provide information on:

(a) The impacts of climate change on the Covenant rights of the State party's population and on the priorities for national adaptation measures;

(b) The development of the State party's nationally determined contribution in relation to climate negotiations;

(c) The impact of measures taken to reduce deforestation, particularly in the Amazon, with a view to meeting the State party's commitment to eliminate illegal deforestation by 2030, and the implications of the interruption of the Action Plan for the Prevention and Control of Deforestation in the Legal Amazon Region;

(d) The impact of measures taken to restore the areas destroyed by illegal logging and by forest fires and to address the growing loss of biodiversity.

II. Issues relating to the general provisions of the Covenant (arts. 1–5)

Right to freely dispose of natural wealth and resources (art. 1 (2))

6. Referring to paragraph 5 of the State party report, please provide information, including detailed statistical data, where applicable, on:

(a) The progress made with regard to the process of formal demarcation of indigenous and *Quilombola* lands;

(b) The status, substance and implications of Normative Instruction No. 9 of 16 April 2020, issued by the National Indian Foundation, as regards the protection of land rights;

(c) The impact of measures taken to counter land-grabbing and to restore to indigenous peoples, *Quilombola* communities and other traditional communities lands that have been illegally appropriated, including due to delays in demarcation;

(d) Measures taken to address the massive illegal seizures of indigenous lands, particularly those affecting the Karipuna and Uru-Eu-Wau-Wau peoples in the State of Rondônia and the Arara people in the State of Pará.

Maximum available resources (art. 2 (1))

7. In order to assess how the State party uses its available resources to the maximum to give effect to the Covenant rights, please provide information, for the last 10 years, on:

(a) The proportion of persons living below the poverty line and the levels of inequality, defined as the ratio between the total income accruing to the richest decile of the population and the total income of the poorest 40 per cent of the population;

(b) The proportion of public revenue that is generated through taxes;

(c) The tax rates levied on corporate profits and on personal income, the value added tax rate (exclusive of the value added tax on luxury items, tobacco, alcohol, sugary drinks and snacks, and gasoline) and the percentage of total revenue that is generated from personal income taxes collected from the richest decile of the population;

(d) Public expenditure as a percentage of gross domestic product and, within total public expenditure, the proportion of the public budget that is allocated to social spending (employment, social security, food, water and sanitation, housing, health, education and culture);

(e) Inflation-adjusted absolute levels of social spending.

8. Please comment on the compatibility of Constitutional Amendment No. 95 of 2016, introducing a ceiling on public spending, with the State party's obligation under the Covenant to use its available resources to the maximum for the realization of economic, social and cultural rights. Please provide information on any assessment made of the impact of the Amendment on the effective enjoyment of the Covenant rights, especially as concerns the State party's management of the COVID-19 pandemic and its structural consequences. Please also provide information on current projections of the evolution of public spending relating to social rights until the next possible revision, in the tenth year of the new fiscal regime. Please further clarify the status, purpose and possible implications of the provisions of article 6 of proposed constitutional amendment No. 188/2019, which refer to a "right to intergenerational fiscal balance" to be respected in the context of the realization of social rights.

Non-discrimination (art. 2 (2))

9. Please provide information on the obstacles to addressing the high level of inequality that exists in the State party, including between regions, referring, among others, to the State party's fiscal policy.

10. With regard to the Covenant rights of persons with disabilities, please provide information on:

(a) The impact of the implementation of the National Plan on the Rights of Persons with Disabilities, mentioned in paragraph 31 of the State party report, on the Covenant rights of persons with disabilities and how the Plan addresses intersectional discrimination against women, indigenous people and people of African descent with disabilities;

(b) Measures intended to increase access to support services and allowances, particularly personal assistance services, to enable persons with disabilities to live independently and participate in the community and on the labour market, including the enforcement of the legal obligation for employers, educational institutions and service providers to provide reasonable accommodation for persons with disabilities and of the Quota Law (Law No. 8,213/1991);

(c) The intention of the prohibition of "the collection, by schools, of additional values for the implementation of accessibility features," mentioned in paragraph 296 of the State party report;

(d) The compatibility of the emphasis of Federal Decree No. 10.502 of 30 September 2020 on special education with the right to inclusive education.

11. Please explain the obstacles to the effective exercise by migrants, including those in an irregular situation, of the economic and social rights guaranteed in the Brazilian Migration Law of 2017 mentioned in paragraph 44 of the State party report. Please describe the measures taken by the State party to address them, especially in the context of the COVID-19 pandemic. Please also indicate the measures taken to strengthen the legal framework for the protection of the rights of migrants, refugees and asylum seekers.

III. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Right to work (art. 6)

12. Please provide updated information on the achievement of the targets of the National Plan for Ensuring Employment and Decent Jobs mentioned in paragraph 85 of the State party report. Please indicate how the Plan and other measures taken by the State party are addressing higher unemployment rates among groups such as persons of African descent. Please also describe any assistance in finding employment provided to individuals who have lost their jobs since the beginning the COVID-19 pandemic.

13. Please provide clarification of the changes introduced pursuant to Law 13,467 of 13 July 2017 and other measures, such as provisional decree No. 905/2019 on the Green and Yellow Programme, which may render work less stable or reduce social protection for workers. In relation to paragraphs 63–64 of the State party report, please provide information, including statistical data, on the implementation of the National Programme for Access to Technical Education and Employment and the impact of that Programme and of the National Agenda for Ensuring Decent Jobs for Youth on employment among young people. Please also provide information on the types of employers involved in the apprenticeship programme mentioned in paragraphs 66–67 of the State party report and data disaggregated by age group on individuals employed under the programme, especially those aged under 16 and under 18 years of age.

Right to just and favourable conditions of work (art. 7)

14. Please provide information on the impact of measures taken to enforce the minimum wage in the State party. In relation to paragraphs 81–82 of the State party report, please comment on the effectiveness of the measures taken in narrowing the gender and race wage gaps in the State party. Please also describe the impact of the dismantling of the Ministry of Labour and Employment on the effective implementation of the National Policy for Occupational Safety and Health and the capacity of the State party's system of labour inspectorates to monitor conditions of work for all workers, including workers in the informal economy, domestic workers and agricultural workers.

15. Please provide information on the obstacles to ensuring respect for the labour and social security rights of domestic workers provided for by law and the extent to which they are addressed by measures taken by the State party. Please also provide information on the impact of measures taken to provide protection for domestic workers against exploitation and abuse and to facilitate the reporting of violations of their rights and the prosecution of the perpetrators. In particular, please provide information on the impact of measures taken to put an end to the economic and social exploitation of children in domestic work.

16. Please provide information on the impact of the implementation of the National Plan to Combat Informal Employment of Workers mentioned in paragraph 58 of the State party report. In particular, please provide information on the obstacles that exist to reducing informal employment in rural areas in spite of the implementation of the National Policy for Rural Workers referred to in paragraph 59 of the State party report. Please also explain how the State party ensures that initiatives such as the *Crescer* programme and the credit supply actions mentioned in paragraphs 72–73 of the State party report generate decent employment and do not lead to the creation of more jobs in the informal economy.

17. Please provide information on the enforcement of proposed constitutional amendment No. 438 on slavery, mentioned in paragraph 95 of the State party report, including statistical data on employers that have been found to be engaging in slavery-like practices and on properties that have been expropriated as a result.

Trade union rights (art. 8)

18. Please provide clarification of the changes introduced pursuant to Law No. 13,467 of 2017 with regard to the representation of workers in the workplace and in collective bargaining and of any other changes regarding trade union rights.

Right to social security (art. 9)

19. Please describe briefly the changes introduced pursuant to Constitutional Amendment No. 103/2019 on the social security reform as regards eligibility requirements and benefits and clarify the changes introduced in 2015 to the unemployment benefit rules mentioned in paragraph 77 of the State party report. Please provide information, including disaggregated statistical data, on the impact of the reform on women, people of African descent, traditional peoples and communities, and lesbian, gay, bisexual, transgender, queer and intersex persons. Please also explain the measures envisaged by the State party to guarantee the right to social security in the long term in view of the challenges facing its social security system, as described in paragraph 132 of the State party report.

20. Please provide information on any assessment made of the impact of the emergency relief fund and the allowances distributed in response to the COVID-19 pandemic as regards their availability, accessibility and adequacy, and on any further reforms envisaged to fill social protection gaps in the current system brought to light by the COVID-19 pandemic.

Protection of the family and children (art. 10)

21. Please describe the impact of the implementation of the National Policy for Older Persons and the other measures mentioned in paragraphs 33–38 of the State party report on the Covenant rights of older persons and include relevant statistical information.

Right to an adequate standard of living (art. 11)

22. Please explain why extreme poverty rates significantly increased in the State party during the reporting period in spite of the implementation of poverty reduction measures such as the Brazil without Extreme Poverty Plan, mentioned in paragraph 57 of the State party report. Please explain how these measures have targeted and benefited those groups that are most affected by poverty and extreme poverty.

23. Please describe the changes brought about as a result of the constitutional recognition of the right to food in the delivery of food-related policies, such as those described in paragraphs 144–146 of the State party report. Please explain what the recognition of that right entails for the millions of people who are food insecure in the State party. Please also report on the impact of the implementation of the Programme for the Acquisition of Food, mentioned in paragraph 149 of the State party report, the progress achieved, particularly in relation to the realization of the right to food, the main actions developed and the budget currently allocated to it. Please provide information on the impact of measures taken to address the impact on the rights to health and to food of overuse of hazardous pesticides and agricultural inputs in food production.

24. Please indicate, with statistical data on availability and habitability, the extent to which the *Minha Casa Minha Vida* programme, mentioned in paragraph 177 of the State party report, has benefited households living in informal settlements. Please also provide information, including statistical data for the past five years, on forced evictions carried out in the State party, indicating the reasons for them and the reparations provided to victims. Please comment on the effectiveness of legal and other safeguards in ensuring that victims of forced evictions are not rendered homeless and/or are provided with adequate alternative accommodation and/or compensation and indicate whether the State party has instituted a moratorium on evictions during the COVID-19 pandemic.

25. Please provide information on any adjustments made to the National Plan for Sanitation, the National Solid Waste Policy and other relevant policies to accelerate access to clean and safe drinking water and improved sanitation in the State party, especially in view of their importance in preventing and fighting the COVID-19 pandemic and the chikungunya and zika virus disease epidemics. Please also explain how the legal and other safeguards in place can effectively protect the human rights to water and sanitation, including availability, accessibility, affordability and quality, when service provision is privatized.

26. Noting the State party's view that the process of demarcating and acquiring titles for rural land effectively contributes to a decrease in agrarian conflicts, land grabbing and illegal deforestation in the Amazon, please provide information on the main lessons learned from

the State party's land regularization programme. Please also report on the implementation of the National Plan for Agrarian Reform mentioned in paragraph 189 of the State party report and the results achieved compared to the objectives and targets. Please provide information, including disaggregated statistics, on disputes handled by the Intersectoral Committee for Urban Land Conflict Mediation, mentioned in paragraph 185 of the State party report, and the outcome thereof. Please provide information on similar mechanisms for disputes concerning rural land.

Right to physical and mental health (art. 12)

27. Please briefly explain the new health sector financing model introduced in 2019 in the State party. Please indicate the extent to which the model and the minimum spending allowance for health care, as provided for under Constitutional Amendment No. 95 of 2016, enable the State party to allocate adequate resources to ensure the proper functioning of the public health system. In this regard, please provide information on any assessment made of their impact on the effective exercise of the right to health and the State party's capacity to respond to health crises, such as the COVID-19 pandemic and the zika epidemics.

28. Please provide information on the reasons for the delay in the disbursement of funding allocated to the fight against the COVID-19 pandemic and in the implementation of the Emergency Plan to Fight COVID-19 in Indigenous Territories, provided for under Law 14,021 of 7 July 2020. Please indicate, including with statistical information, the extent to which the measures taken by the State party have been effective in controlling the spread of the COVID-19 pandemic and ensuring the provision of adequate health care, especially in indigenous territories. More generally, please explain, including with statistical data, the impact of the measures taken by the State party in light of the disproportionate COVID-19 infection and mortality rates among disadvantaged and marginalized groups in the State party. Please report on the impact of efforts to increase the administration of vaccines for certain age groups or priority groups, as mentioned in paragraph 248 of the State party report, and indicate how this system has been affected by the COVID-19 pandemic.

29. Please update the Committee on the progress made towards liberalizing the State party's restrictive abortion law, which currently criminalizes women undergoing abortions. Please describe the obstacles to achieving universal access to sexual and reproductive health care and quality maternal health care in the State party. In particular, please provide information on the root causes of the high rates of unwanted pregnancies in the State party and indicate, including with statistical data, the extent to which the sexual and reproductive health measures described in paragraph 224 of the State party report are addressing the problem.

30. Please indicate the extent to which existing community-based services introduced under the Psychiatric Reform Law meet mental health-care needs in the State party, including in terms of availability, equal access, affordability and quality of care, especially for children, young people and those living in disadvantaged and marginalized areas. Please also provide an update on the implementation of the measures announced in December 2017 for strengthening mental health services within the public health system and indicate the extent to which they are compatible with the community-based approach of the Psychiatric Reform Law. Please indicate whether the State party is considering expanding the reach of harm reduction services for people who use drugs and provide information on the measures taken to ensure that drug dependence treatment, including when provided in the private sector, is based on evidence and complies with human rights.

Right to education (arts. 13–14)

31. Noting the near universal enrolment at the primary level of education, please explain why the implementation of the National Education Plan has not led to higher rates of enrolment, and especially of completion, at the secondary level. Please also provide information on the impact of the budget cuts introduced pursuant to Constitutional Amendment No. 95 on the implementation of the Plan and of the National Programme for School Meals, mentioned in paragraph 146 of the State party report. In relation to paragraphs 298–300 of the State party report, please provide information on the impact of measures taken to accelerate the reduction of illiteracy and of the professional training provided to young

people and adults who did not complete primary education. Please provide further information on the application of the Education Quota Law mentioned in paragraph 11 of the State party report, including annual statistical data on enrolment in higher education, disaggregated by sex, social origin and ethnicity.

Cultural rights (art. 15)

32. In relation to paragraphs 324 and 333 of the State party report, please provide updated information on the implementation of the plan for the restoration of the National Museum following the partial destruction of its collection in 2018 and on the public notice for the preservation of and access to the assets of the Afro-Brazilian heritage. Please also provide information on measures taken to prevent further losses occurring in cultural institutions and to ensure adequate protection of the State party's cultural goods. Please provide further information on:

(a) The impact of budget cuts in the culture and research sectors on the implementation of the measures described in paragraphs 314–335 of the State party report and on the exercise of the right to enjoy the benefit of scientific progress and its applications, academic freedom, including in relation to the COVID-19 pandemic, and the right to take part in cultural life;

(b) The impact of the implementation of the *Ciência sem Fronteiras* programme mentioned in paragraph 335 of the State party report.
