



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
2 December 2022

Original: English

Committee on the Elimination of Racial Discrimination 108th session

Summary record of the 2932nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 17 November 2022, at 10 a.m.

Chair: Ms. Shepherd

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined eighteenth to twentieth periodic reports of Brazil (continued)
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1. *At the invitation of the Chair, the delegation of Brazil joined the meeting.*
2. **Mr. Payandeh** (Country Task Force) said that, while the State party acknowledged the need for decisive action to tackle the disproportionate number of homicides of persons of African descent, it had not addressed the crisis sufficiently. He therefore wished to know what measures it had adopted to address homicide, how it fulfilled its obligation to protect persons of African descent from violence and homicide, how civil society organizations and communities were involved in developing and implementing anti-homicide policies, how the State party was addressing the proliferation of firearms and why gun control had been relaxed in recent years.
3. Information on measures to address the disproportionate imprisonment of persons of African descent and the excessive use of pretrial detention would be welcome. It would be helpful to have further information on the response to discrimination by the police and judicial system, which was at the root of those high rates of imprisonment and required a comprehensive, systemic approach that addressed the over-policing of areas inhabited by groups vulnerable to discrimination. It would also be interesting to hear whether the State party would consider changing its policy on drugs and decriminalizing drug possession. The Committee had been informed of poor, dangerous conditions in prisons, particularly for young black prisoners, and he wished to know how the State party ensured that the treatment of persons deprived of liberty complied with international human rights standards.
4. Levels of police violence in the State party were extremely high, and the number of black men killed by the police had risen. The Committee had a number of concerns, including in relation to police raids in favelas that exacerbated the vulnerability of persons of African descent, the failure to implement decisions of the Federal Supreme Court that were intended to restrict such raids and the lack of accountability for officers involved in police violence. He would therefore appreciate further information on how the State party prevented police brutality, including details of any training programmes, whether they were effective and raised awareness of human rights in policing and the racial context in which officers operated, and measures to promote the use of less lethal weapons and body cameras.
5. He would also be interested to know whether the State party had considered introducing measures to ensure accountability for police violence and had implemented procedures for investigating large-scale loss of life linked to police activities that included provisions to guarantee those investigations' effectiveness and independence. He wished to hear about the State party's position on the principle of "resistance followed by death", which reportedly resulted in a presumption that police action was justified even if it led to violence or death, and whether the concept would be addressed through legislation or regulations. Military police officers were often involved in operations, particularly in favelas, and he would welcome information on how they were held accountable, whether cases of violence against civilians were tried in military courts and whether the State party would consider demilitarizing the police.
6. Information on how the State party addressed grievances and the negative impact of police killings and violence on victims' families, including measures to provide support and ensure that their protests were not criminalized, would be welcome. He also wished to know how civil society organizations, particularly those representing affected communities, were involved in developing policies on prevention, accountability and redress with regard to police violence. The Committee would also appreciate information on the status of investigations into police raids in the Jacarezinho and Vila Cruzeiro favelas in 2021 and 2022, during which persons of African descent had been killed and injured, and the 2021 acquittal of five police officers charged with unlawfully killing 13 persons, predominantly persons of African descent, in the Nova Brasília favela in 1994, including why the incident had not been investigated until 2017.

7. He would welcome information on measures to combat racial profiling in law enforcement, including specific measures for persons facing intersecting forms of discrimination. In that connection, he wished to know the status of the investigation into the case of Genivaldo de Jesus Santos, an Afrodescendent person with mental disabilities who had been killed by police officers in 2022. There were concerns that the facial recognition systems in use in the State party lacked transparency and might reproduce racial biases. The State party should therefore provide information on the precautionary measures adopted to avoid racial bias in algorithms and artificial intelligence; the Committee's general recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials provided guidance in that area.

8. There were reports that anti-racism protests had been met with arbitrary detention and police violence, and he wished to know how the State party guaranteed the right to peaceful assembly, de-escalated conflicts, implemented non-violent and less lethal crowd control techniques and cooperated with protesters. He also wished to know how it guaranteed the rights of human rights defenders, avoided their criminalization and prevented intimidation through police surveillance and other activity, as well as how human rights defenders were protected from violence; protection programmes were said to be ineffective. He would like to know the status of the proposed changes to the legal framework on counter-terrorism which, it was feared, might further restrict civic spaces, and whether their impact on Afrodescendent and Indigenous human rights defenders had been analysed.

9. Lastly, given the reports of growing discrimination and violence against persons, particularly women, who practised traditional Afro-Brazilian religions, he wished to know how the State party was addressing the problem and assessing its scale and nature, whether data on religious groups was gathered to inform legislation and policy, whether the State party had developed and implemented an effective policy to address racial discrimination against religious minorities, and whether mechanisms were in place to hold perpetrators of violence on grounds of religion to account.

10. **Mr. Vega Luna** (Country Task Force) said that he would welcome information on the regulatory, budgetary, institutional and coordination measures that had been planned or adopted to provide adequate and effective protection to human rights defenders, as well as on the National Protection Programme for Human Rights Defenders, including the criteria used to evaluate risk and determine applicable protection measures, taking into account race, gender and ethnicity. He wished to know how the institutional framework and related regulations for the protection of human rights defenders, particularly women, were being reviewed and strengthened, and whether threats and attacks were investigated promptly and thoroughly.

11. He would be interested to hear how global commons and the rights of Indigenous and Afrodescendent communities were safeguarded. It had been reported that illegal mining, deforestation and logging, along with a relaxation of the rules surrounding permits for extractive activities, had undermined the environmental rights of Indigenous and quilombola communities. It would therefore be helpful to have updated information on the regulations and measures adopted, and their results, to protect the environment, control illegal mining, prevent setbacks in environmental protection and develop a national plan for enterprise and human rights with the participation of civil society, particularly Afrodescendent, Indigenous and quilombola communities.

12. He would welcome information on the implementation of the Plan of Action for Preventing and Monitoring Deforestation in the Amazon, which had reportedly been abandoned in 2019; the measures taken to prevent land encroachment, illegal exploitation, deforestation and land grabbing; and any specific efforts to ensure that quilombola communities did not suffer violence or the dispossession of their lands. Special protection should be afforded to the Mundurucu and Yanomani peoples, who had suffered attacks when opposing illegal logging and mining on their lands, and he wished to know how the authorities provided such protection and prevented mercury contamination from illegal mining. The Committee had been informed of the serious consequences of illegal mining, logging, land grabbing and deforestation in the Amazon, including for the fundamental rights of Indigenous Peoples, and he would therefore appreciate information on the measures adopted to bring an immediate end to those practices and to all mining and deforestation on

Indigenous lands, to remove illegal mines and to investigate reports of human rights violations effectively. It would also be useful to hear about efforts to continue the demarcation and registration of Indigenous lands, strengthen protection for those lands and for Indigenous organizations and ensure that regulations did not undermine Indigenous Peoples' right to land.

13. It would be good to have an assessment of the effectiveness of the measures adopted to ensure the Roma community's access to education, health, social security and social services, as well as the shortcomings detected in that regard and how they were addressed. He also wished to know how the State party was addressing the lack of data on the situation of the Roma. Information on the progress of draft legislation on the status of that group, on other measures to improve policies and laws relating to their protection and on the strategies adopted by the Ministry of Women, Family and Human Rights to allow the Roma to obtain civil documents would also be appreciated.

14. While the State party had made considerable progress in the area of migration and asylum, it was possible that the restrictions on entering the country imposed during the coronavirus disease (COVID-19) pandemic violated international agreements and national legislation; they should be lifted and public migration and asylum policies introduced. He wished to know how immigrants' rights were protected and the current legal framework enforced. Legislation on trafficking in persons failed to criminalize the trafficking of girls for the purposes of sexual exploitation where there was no force, fraud or coercion, and the third National Plan to Combat Trafficking in Persons did not adopt an approach based on race or racial discrimination. It would be interesting to know what legal, administrative, budgetary and institutional measures had been adopted to combat trafficking in persons and to introduce an approach that ensured that those measures did not discriminate on the grounds of race.

15. **Ms. McDougall** (Country Rapporteur) said that she would like to know whether the State party would be willing to open negotiations with the legitimate representatives of the Afrodescendent, quilombola and Indigenous communities on the way forward with respect to reparations.

16. **Mr. Rayess** said that, at the previous meeting, he had drawn attention to the fact that the composition of the delegation did not adequately reflect the country's rich diversity. He failed to understand why the delegation that had been sent was not more representative of the population. The information received from the State party had shown the Committee that racism in Brazil was institutional and systematically reproduced inequality. Ensuring that all were equal before the law was a difficult problem for the Government. He would like to know how the system in place in Brazil, which had introduced quota laws to address segregation, differed from apartheid and other segregationist systems.

17. **Mr. Diaby** said that he would appreciate receiving an update on the progress made by Brazil on its Sustainable Development Goals where Indigenous and Afrodescendent communities were concerned, in particular in the areas of hunger, poverty and health. He would like to know what strategy Brazil had adopted to conform to the programme of activities for the implementation of the International Decade for People of African Descent. Statistics on Indigenous and Afrodescendent children who were victims of internal violence would be welcome, along with details of efforts made to protect those children. He would also appreciate information about the role of the ombudsman in preventing and managing the impact of internal violence on ethnic groups. Could the State party provide disaggregated information on the Indigenous and Afrodescendent prison population, including the crimes involved? He would like to know more about the structure, make-up and recruitment procedures of the country's racism and racial discrimination watchdog. Information about investigations conducted by that body and its role in the population census would also be welcome. Did the housing policy pay special attention to Indigenous people or persons of African descent? He asked whether the State party intended to ratify the 1961 Convention on the Reduction of Statelessness. Lastly, he would like to know what the estimated stateless population of Brazil was, and whether there was a national plan to eradicate statelessness.

18. **Ms. Esseneme** said that she would appreciate a response from the State party to the allegation that the Roma community had not been included in the population census because it was not recognized as part of the Brazilian population. She would also like to know about

any measures taken to ensure that its programme to prevent teenage pregnancy would reach Indigenous and Afrodescendent populations, in the light of indications that it had only benefited white girls over the years.

19. **Mr. Amir** said that climate change posed problems not only for Brazil but indeed the entire planet. The statements made at the current Conference of the Parties to the United Nations Framework Convention on Climate Change in Sharm el-Sheikh, Egypt, attested to the fact that those responsible for the situation included countries like Brazil, among others. There was a need to change the way Indigenous lands were dealt with, as the problems presented in places like the Amazon affected everyone.

The meeting was suspended at 11.00 a.m. and resumed at 11.15 a.m.

20. **A representative of Brazil** said that he was hurt by the comparison between apartheid and the affirmative action implemented in Brazil. To draw that comparison was to show disrespect for the victims of apartheid. Although the quota system was a bitter pill to swallow, it had been introduced to undo existing inequalities by helping foster greater participation of black people and women in politics and higher education.

21. Police violence against black people was an issue of real concern. However, no deliberate decision had been taken to kill black people, and progress had been made, demonstrated by a drop in recent years in the number of deaths of black people in police operations. That could be attributed largely to the increased use by the police of body cameras. The police's use of excessive force and lethal weapons was also being monitored. An interministerial public security programme had been set up to promote racial equality, and law enforcement officers received racism awareness training via various media. Initiatives had been introduced in the prison system to help combat recidivism among former black and *pardo* (mixed race) inmates upon their release.

22. Civil society was able to make its voice on public policy heard as part of a bottom-up process through the Special Secretariat for Policies to Promote Racial Equality and the National Council of Traditional Peoples and Communities. In May 2022 the Senate had approved the Roma Statute, which should help remove prejudices faced by that community. Other efforts were also being made to improve the educational and employment situation of Roma.

23. **A representative of Brazil** said that reports of higher rates of maternal mortality in the black population during the period between 2018 and 2022 were not true. Brazilian maternity hospitals did not have a problem of institutional racism. The Government was taking a socioeconomic approach to issues relating to maternal and newborn health, because low income was a greater indicator of maternal mortality than ethnicity. The black community was more affected by certain diseases associated with maternal mortality that were also income-related, such as pre-eclampsia, hypertension and anaemia. Maximum priority was also being given to maternal mortality in the Roma population. Adolescent pregnancies, another Government priority, had dropped from 458,000 in 2019 to 365,000 in 2022.

24. **A representative of Brazil** said that it had drawn up several strategies to help combat maternal mortality, in response to the overall rate increasing by more than one hundred per cent during the COVID-19 pandemic. The Government had doubled the budget allocation for that area, with the greater share of resources earmarked for poorer remote and rural parts of the country on account of their increased vulnerability and needs. Strategies including remote interventions were implemented in order to overcome geographical barriers and provide isolated Indigenous communities in the Amazon region with health-care access. Women and girls had greater access to long-term contraception options along with other forms of support, free of discrimination. Increased training was given to health-care professionals. A target had been announced to eliminate maternal mortality caused by haemorrhage. There were also plans to widen the strategies in 2023 to include other causes of death such as hypertension, infection and respiratory conditions.

25. **A representative of Brazil** said that the Ministry of Health's Special Secretariat for Indigenous Health oversaw a health service division dedicated to providing health-care services to the Indigenous population. It offered differentiated services in addition to

traditional Indigenous health care. The multidisciplinary health-care teams carrying out the work included Indigenous surgeons, doctors, dentists, nurses and other health-care professionals. Between 2019 and 2022, the teams had provided more than 54 million primary care consultations.

26. During the COVID-19 pandemic, the Special Secretariat had intensified its activities to reach all 34 Indigenous districts, assisted by more than 84 million reais (R\$) of State funding. Specific health-care actions were carried out in other priority districts. Additional health-care professionals were recruited to provide primary care to Indigenous people, and a total of 11 million consultations took place. Hospital provision provided in the Amazon took account of the cultural sensibilities of Indigenous persons with COVID-19, for example allowing spiritual leaders to visit hospitals and providing different meals. Hospitals in the State of Amazonas alone received 48 ventilators from the Special Secretariat. Oximeters and oxygen therapy equipment were also provided, and primary care units were used to treat mild cases. Sanitary barriers and sanitation protocols were also implemented to protect Indigenous territories and isolated peoples.

27. Of the first 3 million COVID-19 vaccine doses to reach Brazil, 820,000 went to Indigenous communities, demonstrating the priority shown to those groups by the Government. By 2022, 92 per cent of Indigenous people had received a first dose, and 87 per cent a second.

28. **Mr. Amir** said that he wished to know more about the impact of deforestation on the country's Indigenous populations and it would be useful to have more details about the country's efforts to reduce carbon dioxide emissions.

29. **Mr. Rayess**, noting that the delegation had many white and very few black members, asked how the State party ensured adequate representation of its large Afrodescendent population in the Government.

The meeting was suspended at 4.30 a.m. and resumed at 4.55 p.m.

30. **A representative of Brazil** said that women of African descent in Brazil often faced twofold discrimination and the COVID-19 pandemic had exacerbated deep-rooted social inequalities. A programme had been launched to train women, especially vulnerable women in rural areas, on starting their own business and obtaining funding from banks. In Bahia specifically, courses and workshops were provided to empower vulnerable women and boost their employment prospects. In 2021, a national plan to combat femicide had been introduced, with a particular focus on women of African descent. As part of the plan, a pilot project had been launched in the State of Rio de Janeiro to identify cases of domestic violence against Afrodescendent women.

31. The Ministry of Education had developed a national policy to reduce the school dropout rate among children of African descent and improve their performance at primary and secondary school levels. The proportion of such children attending school had risen significantly as a result of Law No. 12711/2012, which had established quotas, and the teaching of African history had been introduced in basic education.

32. In 2022, there had been a 10 per cent increase in the number of elected politicians of African descent compared to the 2018 elections, and electoral quotas had led to a small increase in the number of Afrodescendent women in government positions. However, the proportion of members of the National Congress who were of African descent was far from representative of the population at large. In 2017, legislation had been passed to encourage their participation in politics.

33. The Ministry of Women, Family and Human Rights had set up a hotline for complaints regarding hate speech. The Government had adopted measures to combat hate speech in line with article 4 of the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, and a series of bills, including one specifically targeted at hate speech on the Internet, were being drafted to address the issue further. The Ministry offered training courses to women of African descent in order to increase their representation in decision-making positions.

34. **A representative of Brazil** said that the Ministry of Health had spared no effort in minimizing the effects of the COVID-19 pandemic on the population's health since the outbreak of the disease. Only those who had refused to have the vaccine had not received the full dose. The Government had provided R\$ 100 billion in funding to ensure adequate health care at the state and municipal levels and a specific line of funding of over R\$ 300 million had been allocated to support Afrodescendent, quilombola, Roma and Indigenous communities. The Government had also invested in training medical personnel to ensure access to health care for vulnerable populations who lived below the poverty line.

35. The maternal mortality rate was not disproportionately higher among women of African descent than among the population as a whole. Contraceptives were available at all publicly funded health centres. Abortion was permitted only in cases where there was a risk to the health of the mother, the fetus was anencephalic or the pregnancy was the result of rape. Physicians who performed abortions on other grounds were liable to criminal prosecution. However, terminations were available to all who were entitled to them. The Government's steps to address the major causes of maternal mortality were based on recommendations from the country's best obstetricians. A programme entitled "Cuida Mais Brasil" (More Care Brazil) aimed to provide quality primary health care for all women and children, regardless of income level or race. While he did not recognize the term "obstetric violence", his Government had allocated additional funding to the health-care budget for mothers and babies to ensure adequate treatment and address institutional violence. The Government had doubled the number of beds in intensive care units to cope with additional demand during the COVID-19 pandemic.

36. **A representative of Brazil** said that the Brazil Aid (Auxílio Brasil) Programme and Emergency Aid (Auxílio Emergencial) Programme were both cash transfer programmes but had different objectives. Emergency Aid had been implemented between April 2020 and October 2021 as an urgent measure to mitigate the impact of restrictive measures imposed as a result of the COVID-19 pandemic on vulnerable people, including workers in the informal sector. The poverty rate had fallen from 5.4 per cent in 2019 to 1.9 per cent in 2020, the largest poverty reduction in Latin America and the lowest-ever rate in Brazil, according to World Bank data. The Government was working in collaboration with civil society to lower the rate further.

37. **A representative of Brazil** said that the State party was taking steps to eliminate institutional racism in the criminal justice system. The National Council of Justice had held a series of seminars to raise awareness among judges of harmful and discriminatory conduct. In addition, in the light of a survey finding that racial profiling was leading to the disproportionate conviction and harsher sentencing of black defendants in criminal proceedings, a working group comprised of criminal justice and civil society stakeholders had examined the reasons underlying those conviction rates and had made a number of recommendations for improvement. Such efforts had already yielded positive results. Indeed, two recent Superior Court of Justice rulings had deviated from established case law and set new precedents for suspect identification and police investigation techniques.

38. **Ms. McDougall** said that she would be grateful for the State party's response to reports that the Palmares Cultural Foundation, a primary institution for promoting the cultural, social and economic values of Afrodescendent society, had actually expressed hostility towards those values. She wondered to what extent the Foundation's activities were monitored and evaluated. While acknowledging that the State party did not expressly encourage the use of lethal force by the police, she would like to know what steps it was taking to actively discourage that practice. Given that women of African descent accounted for some 65 per cent of cases of maternal mortality, she wished to know what efforts the State party was making to lower that rate. Lastly, she would be interested to hear what the State party was doing to tackle food insecurity in the country, beyond distributing food baskets during the COVID-19 pandemic.

39. **Mr. Payandeh** said that he would appreciate more detailed information on the measures taken to address police violence.

40. **Mr. Vega Luna** asked what steps were being taken to strengthen mechanisms for the protection of human rights defenders, and to demarcate indigenous territories.

41. **A representative of Brazil** said that the aforementioned working group had proposed guidelines and procedures for preventing the misidentification of criminal suspects, as well as the provision of training and guidance to the police on suspects' rights. Efforts were being made to address challenges in the field of deprivation of liberty. For instance, under the Making Justice (Fazenda Justiça) Programme, greater social support was provided to inmates and prison leavers. Furthermore, judges were increasingly handing down alternative sentences to reduce prison overcrowding.

42. **Ms. Esseneme** said that she wished to know whether the State party had taken any measures other than the introduction of quotas to promote the education and employment of underrepresented ethnic groups, since quotas alone did not always have the desired effect. In addition, she wondered whether the State party planned to target teenage pregnancy prevention campaigns at young black women, given the increasing number of unwanted pregnancies among that demographic.

43. **Mr. Diaby** asked whether the State party was taking steps to introduce specific legislation for the protection of human rights defenders and what efforts it was making to compensate Indigenous populations in the Amazon rainforest whose habitats had been adversely affected by agricultural policy and practices in the country.

44. **Mr. Rayess** said that he had not intended to make a value judgement when drawing a comparison between apartheid and those institutions in the State party that had effectively created their own laws in the guise of quota laws. As he understood the situation, certain harmful traditions that had persisted since the times of slavery had continued to hamper the State party's efforts to eliminate racism. Rather than treat the symptoms of racism, the State party must eradicate the causes. It must take substantive action to change hearts and minds and to combat the greed and hatred underpinning inequality in the country.

45. **Ms. McDougall** said that she was grateful to the delegation for its detailed responses to the Committee's questions. While noting with appreciation the affirmative action taken by the State party to eliminate racism, she said that it must take further-reaching measures, in consultation with civil society organizations, to address the situation of gross inequality in Brazil.

46. **Mr. da Silva Nunes**, speaking as head of the delegation, said that he did not accept any judgment on the way in which it represented the country before the Committee. On the contrary, his Government had made an effort to send those who were best able to provide answers. As such, his delegation demanded the respect due to it. Although the delegation had been very large, it had not received any requests for further meetings or informal discussions. There was therefore room for improvement in future gatherings, and he invited the Committee to explore opportunities for more active engagement and dialogue while the delegation was present in Geneva.

47. Noting that the Human Rights Council had continued to encounter opposition from some sides to any mention of the Durban Declaration and Programme of Action, he invited Committee members and all those who were seriously committed to eliminating all forms of racism and xenophobia to work together to that end.

The meeting rose at 1 p.m.