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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined eighteenth to twentieth reports of Brazil***

1. The Committee considered the combined eighteenth to twentieth periodic reports of Brazil¹, submitted in one document and presented by the State party during its tenth appearance before the Committee, at its 2931st and 2932nd meetings², held on 16 and 17 November 2022. At its 2952nd meeting, held on 1 December 2022, the Committee adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined eighteenth to twentieth periodic reports of the State party. It also welcomes the constructive dialogue with the State party's delegation. The Committee thanks the delegation for the information provided during the consideration of the report, as well as for the written information submitted after the dialogue.

B Positive aspects

3. The Committee welcomes the legislative and policy measures taken by the State party to address racial discrimination, including:

- (a) The ratification in 2021 of the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance;
- (b) The 2017 Migration Law (Law No. 13,445/2017);
- (c) Law No. 12,711 in 2012 to adopt the system for vacancy reservation in the entire public higher education network and in federal institutes;
- (d) The 2014 Public Service Quota Law (Law no. 12.990/2014129);
- (e) The Racial Equality Law (Law No. 12,288) in 2010;
- (f) The adoption of the National Comprehensive Health Policy for the Black Population.

* Adopted by the Committee at its 108th session (14 November – 2 December 2022)

¹ CERD/C/BRA/18-20

² Insert summary records when available

C. Concerns and recommendations

Disaggregated demographic data collection

4. The Committee notes the information, provided by the State party, about the collection of data on the racial and ethnic composition of the population that is disaggregated to reveal their disparate social, economic, political and civil status within the society. It is nevertheless concerned about gaps and weaknesses in mechanisms for coordinating, integrating and verifying data collected at the federal, state and municipal levels, including due to cuts to the budgets of agencies responsible for data collection. It is also concerned that current data collection methods do not accurately capture the situation of those facing intersectional discrimination, including Afro-Brazilians, Indigenous peoples and Quilombolas with disabilities and/ or who identify as LGBTQI+ (arts. 1 and 2).

5. The Committee recommends that the State party undertake a thorough assessment of all of its mechanisms for collecting demographic data at the federal, state and municipality level and promptly addresses any gaps or weaknesses in the collection, verification and integration of such data. Such an assessment should include a focus on the data collected on the situation of Afro-Brazilians, Indigenous peoples and Quilombolas facing intersectional forms of discrimination, including those with disabilities and/or who identify as LGBTQI+. The state party should also provide adequate funding to all State entities responsible for disaggregated data collection.

Domestic implementation of the Convention

6. The Committee notes that the State party has numerous anti-discrimination laws but is concerned by the lack of detailed information about their scope, including whether all forms of racial discrimination, including direct, indirect and intersectional discrimination are covered. The Committee takes note of the process concerning the Commission of Legal Experts established by the House of Representatives to assess gaps and challenges related to legislative framework on racial discrimination and that this Commission has made specific recommendations. The Committee, however, regrets the lack of information on the findings and recommendations of the Commission of Legal Experts. The Committee furthermore welcomes the ratification of the Inter-American Convention against racism, racial discrimination and related intolerance by the State party, but regrets the lack of information on any measures by the Government to effectively implement the obligations under this Convention and to assess what measures need to be taken to in order to fully comply with those obligations (art. 1).

7. The Committee recommends that the State party:

(a) Guarantee the consistent application of the provisions of the Convention at the federal, state and municipal levels, by ensuring that the scope of anti-discrimination legislation covers all forms of racial discrimination, including direct, indirect and intersectional forms of discrimination;

(b) Give full consideration to the recommendations of the Commission of Legal Experts on gaps and challenges related to the legislative framework on racial discrimination, and fully implement those recommendations which concern the State party's obligations under the Convention;

(c) Expand efforts to effectively implement the Inter-American Convention against racism, racial discrimination and related forms of intolerance.

Institutional framework

8. The Committee is concerned that the State party has not yet established an independent national human rights institution (NHRI), compliant with the Paris Principles with a clear mandate to ensure the effective implementation of the Convention at the federal, state and municipal levels. It is moreover concerned that, in the absence of an NHRI, responsibility for implementing the State party's obligations under the Convention appears to be fragmented across a range of public bodies, many of which have, in recent years, been eliminated, defunded and/or disempowered, thereby weakening the protection and promotion

of human rights and fundamental freedoms, as well as constricting the space for social dialogue between the Government and Afro-Brazilians, Indigenous peoples and Quilombolas (art. 1).

9. Recalling its General recommendation No.17³ (1993) on the establishment of national institutions and reiterating the role that an NHRI can play, the Committee recommends that the State party establishes an NHRI, in accordance with the Paris Principles, with a clear mandate to ensure the implementation of the Convention and monitor compliance with its provisions throughout the State party. It also recommends that the State party invests in the institutional capacity of bodies responsible for human rights and racial justice and creates space for social dialogue between the Government and Afro-Brazilians, Indigenous peoples and Quilombolas.

Access to justice

10. The Committee remains concerned about the low number of cases in which relevant national legal provisions on racial discrimination and racist crimes have been effectively applied, leading to persistent impunity for many forms of racism and racial discrimination in Brazil. It notes, with concern, that the State party provided limited information about the steps taken to address barriers to access to justice, such as limited access to legal aid, long trial delays, burden of proof standards that hinder accountability, low trust among victims of racial discrimination in public institutions and professionals involved in the administration of justice, and high acquittal and dismissal rates discouraging victims from pursuing justice (art. 6).

11. The Committee recalls that an absence of complaints and legal actions relating to racial discrimination may reveal a lack of suitable legislation, poor awareness of legal remedies available, a lack of trust in the judicial system, a fear of reprisals or a lack of will on the part of the authorities to prosecute the perpetrators of such acts. It reiterates its recommendation that the State party improves the awareness and training programmes on racist crimes for professionals engaged in the administration of justice, including judges, public prosecutors, lawyers and law enforcement officials.⁴ It also recommends that the State party take immediate steps to urgently identify and effectively address all barriers to justice faced by victims of racist crimes, in particular by increasing access to legal aid, actively cultivating trust among victims of racial discrimination in institutions and professionals involved in the administration of justice, taking measures to accelerate the administration of justice, reviewing the standards of evidence in order to strengthen accountability for discriminatory acts, and by addressing critically high acquittal and dismissal rates which discourage victims of racial discrimination from pursuing justice.

The situation of Afro-Brazilian, Indigenous and Quilombola women

12. The Committee notes that the disparities in the enjoyment of economic and social rights in the State party focus particular attention on the situation of Black and Indigenous women, who are suffering at the intersection of structural racism, poverty, and the disparate negative impact of the COVID-19 pandemic. The Committee notes that even before COVID-19 they were the highest share of the population living in poverty, earning only half of the average per capita household income of the white population. The vast majority of single parent households are headed by Black women. (arts. 2 and 5).

13. The Committee recommends, therefore, that in formulating special measures, the State party should target first the improvement of the enjoyment of economic and social rights by Black and Indigenous women, as encouraged in the Transforming our world: the 2030 Agenda for Sustainable Development, to “reach the furthest behind first.”⁵

³ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7489&Lang=en

⁴ CERD/C/64/CO/2, para.18

⁵ A/RES/70/1, para.4

Right to health and the impact of the COVID-19 pandemic

14. The Committee notes the adoption of the National Health Policy for the Black Population but regrets the reports that there has been inadequate funding to implement policies and a lack of strong leadership to address longstanding disparities in health outcomes between Black, Indigenous and the white populations that are legacies of the era of slavery and colonialism. The Committee is also concerned about reports of a policy to freeze additional funding to the health and education sectors. Further, while noting measures taken by the State party to respond to the COVID-19 pandemic, and to prioritize vaccine distribution to Indigenous communities, the Committee is deeply concerned by reports that COVID-19 death rates of Afro-Brazilians were twice as high as among whites.

15. The Committee is particularly concerned by:

(a) A high rate of maternal mortality among Afro-Brazilian, Indigenous and Quilombola women and disproportionately high increases in the maternal mortality rate negatively affecting those women during the COVID-19 pandemic;

(b) The restrictive conditions under which Brazilian law permits abortions and that when Afro-Brazilian, Indigenous and Quilombola women and girls, seek access to contraceptives and legal abortions, they are reportedly subjected to harassment, violence, and criminalisation along with the doctors and other medical staff providing those services to them;

(c) That the efforts taken to prevent teenage pregnancy have been effective among white Brazilians but not among Afro-Brazilians;

(d) The reports of undignified and violent obstetric practices experienced by Afro-Brazilian women, including women with disabilities and those who identify as LGBTQI+ women, during the provision of sexual and reproductive health services (arts. 5).

(e) High levels of violence against Afro-Brazilian, Indigenous and Quilombola women, including those who identify as LGBTQI+, particularly in the form of femicide, and weaknesses in the measures taken by the State, including the Femicide Plan;

(f) The Committee is also concerned at reports that violence against Afro-Brazilians is so prevalent that it must be considered a public health crisis. It is concerned about the constant mental anguish and trauma suffered by Afro-Brazilian women and communities in perpetual mourning for murdered children and families who constantly experience militarised police violence invading their homes and neighbourhoods without warning or warrant. The Committee is concerned further that despite the profound mental health consequences of such violence, there was a lack of clear information, provided by the State party, about the provision of psycho-social support services to those most affected (arts. 2 and 5).

16. **The Committee recommends that the State party take all necessary measures to ensure the full and effective implementation of the National Health Policy for the Black Population, including the provision of adequate funding and institutional structures. It should also consult with Afro-Brazilian, Quilombola and Indigenous women, to identify and to address current policies and services that have been ineffective at eliminating health inequalities. The State party should also:**

(a) **Develop and implement effective measures to protect on an equal basis, Afro-Brazilians, Indigenous peoples, Quilombolas and non-citizens from the COVID-19 pandemic, as well as future public health emergencies. Such measures should be developed and implemented in consultation with the communities most affected by the COVID-19 pandemic and should include ensuring that all Afro-Brazilians, Indigenous peoples, Quilombolas and non-citizens are and remain fully vaccinated, including through targeted measures that address any specific barriers to their vaccination;**

(b) **Take all effective steps to decrease maternal mortality rates among Afro-Brazilian, Indigenous and Quilombola women and girls;**

(c) Ensure that all Afro-Brazilian, Indigenous and Quilombola women, can access legal voluntary termination of pregnancy under safe and dignified conditions without harassment or efforts to criminalise them or their medical providers;

(d) Ensure that Afro-Brazilian, Indigenous and Quilombola women and girls, can access needed contraceptive services, along with effective, better targeted efforts to reduce teenage pregnancies, in full consultation with representatives from Afro-Brazilian communities;

(e) Increase anti-racism and human rights-based training of all healthcare professionals involved in the provision of sexual and reproductive healthcare to Afro-Brazilian, Indigenous and Quilombola women, including those with disabilities and who identify as LGBTIQI+ women, while also ensuring accountability and remedies for any forms of obstetric violence;

(f) Take all necessary steps to prevent and eliminate violence against Afro-Brazilians, as elaborated further below. It should, moreover, provide comprehensive mental health services to those most affected by such violence and review measures in place to address violence against Black women, such as the Femicide Plan.

Disparities in access to education

17. The Committee remains concerned about disparities in the illiteracy levels of Afro-Brazilians. Given the important link between education, literacy and employment, the Committee is also concerned by reports that out of all those who do not complete basic education, defined as primary and secondary schooling provided up to the age of 17 years, 71.7% are Black. These disparities increased during the COVID-19 pandemic, according to information provided by the State party, partially because many Afro-Brazilian and Indigenous children lacked access to the internet to participate in remote learning. The Committee welcomes the successful efforts to increase access to higher education among Afro-Brazilians and Indigenous peoples through the promulgation, in 2012, of Law No. 12,711, an affirmative action law which has significantly increased the enrolment of Afro-Brazilians in institutions of higher education. The Committee understands that the law is currently under review, ten years after its introduction. It does, however, note, with concern, reports that the quota system has been less effective at granting access to university to Afro-Brazilians and Indigenous peoples who face intersectional forms of discrimination, including those with disabilities (arts. 1 and 5).

18. The Committee reiterates its recommendation that the State party:

(a) Adopt adequate measures to address illiteracy⁶, including by preventing school dropouts and re-enrolling children who have dropped out during the COVID-19 pandemic;

(b) Support Afro-Brazilian and Indigenous peoples to gain access to the internet to facilitate online learning opportunities;

(c) Renew the system of quotas for places at higher educational institutions for Afro-Brazilians and Indigenous peoples. The State party should also take the opportunity of the ten-year review to strengthen the quota system, including by ensuring that it facilitates access to university among Afro-Brazilians and Indigenous peoples facing intersectional forms of discrimination, including those with disabilities.

Poverty, work and income

19. The Committee is concerned about the disproportionate and persistent poverty experienced by most of the Afro-Brazilian, Indigenous and Quilombola communities within the State party. The Committee, notes with concern, reports that between 2012 and 2019, the Black population earned half of the average per capita household income of the white population. The Committee is also concerned that Afro-Brazilian women constitute the majority of domestic workers, who often work in exploitative, precarious and insufficiently regulated conditions and also perform the majority of unpaid care work. The Committee is

⁶ CERD/C/64/CO/2, para.20

concerned at reports that as a result of their over-representation within low paid and unremunerated work, 65% of Black female-headed households experience food insecurity and hunger. It also notes, with concern, reports that the prevalence of chronic malnutrition among Indigenous children under 5 years old is 28.6%.

20. The Committee welcomes that extreme poverty decreased 63% between 2004 and 2014⁷ and further between 2019 and 2020, according to the supplementary information provided by the State party after the dialogue. It is however concerned that these data pre-dates the COVID-19 pandemic, which has had a severely detrimental impact on the social and economic situation of many Afro-Brazilians, Indigenous peoples and Quilombolas. The Committee is also concerned that the State party recently cut cash transfer programmes relied upon by millions, such as the Bolsa Familia programme, and replaced them with initiatives, such as Auxilio Brazil that has different eligibility criteria and provisions, fuelling economic uncertainty. The Committee is also concerned that despite information provided by the Government asserting that Auxilio Brazil is designed to be more effective than the Bolsa Familia programme, it has received reports indicating the contrary.

21. The Committee welcomes measures taken to facilitate access to decent work opportunities, such as the Public Service Quota Law on access to public sector jobs for under-represented racialised groups. It is however concerned that in recent years, the effective implementation of these measures has decreased (arts. 2 and 5).

22. The Committee recommends that the State party:

(a) Take all necessary and effective steps to eradicate poverty among Afro-Brazilians, Indigenous peoples and Quilombolas, including ensuring that effective and sufficient cash transfer programmes are in place;

(b) Review the regulatory framework, including a living wage, for domestic workers to ensure better labour market protections for Afro-Brazilian women engaged in this form of work;

(c) Develop programmes and policies that recognise and remunerate care work;

(d) Take targeted measures to support Afro-Brazilians, Indigenous peoples and Quilombolas who lost employment opportunities during the COVID-19 pandemic to re-enter the workforce;

(e) Take steps to improve the effective implementation of the Public Service Quota Law and its expansion to cover other public and private sector jobs;

(f) Invest in other programmes to increase the numbers of Afro-Brazilian and Indigenous women and men that can enter secure and better remunerated forms of work.

Discrimination and segregation in housing

23. The Committee is concerned by pervasive discrimination and segregation in housing in Brazil. It notes, with concern, that over 60% of households headed by Afro-Brazilian women live in the favelas, which provide grossly inadequate, unhealthy and dangerous housing conditions. The Committee is also concerned about the high and rising levels of homelessness among Afro-Brazilians in the State party. The Committee notes measures to address discrimination and segregation in housing in the State party but is concerned that, according to the State party's periodic report, they have not been sufficient. It is concerned that housing programmes in the State party have assigned support on the basis of income criteria, which exclude the income levels of people in the favelas and totally disregards the realities of racism as a determinant of housing and neighbourhood choices for Black and Indigenous peoples (arts. 3 and 5).

24. The Committee recommends that the State party, in collaboration with Black and Indigenous leadership groups, takes all necessary and effective measures to fully assess, and target the complex dynamics of racism and classism that lead to racially

⁷ CERD/C/BRA/18-20, para.67

segregated and grossly inferior housing by integrating and assessing jointly specific indicators related to Afro-Brazilians, income and employment status. On the basis of the lessons learned from that assessment the State should implement effective policies to provide access to a wide array of safe and healthy choices of housing to Afro-Brazilians. The State party should also undertake a similar assessment of homelessness and use the lessons learned to shape effective policies to end homelessness in the State party.

Political representation

25. The Committee is concerned by:

(a) The very low rate of political representation of Afro-Brazilians, Indigenous peoples and Quilombolas within Brazil's political institutions, including the two houses of the National Congress, vis-à-vis their respective shares of the overall population;

(b) The ineffectiveness of measures taken by the State party to increase the numbers of Afro-Brazilians in political office to ensure political representation proportionate to their respective shares of the overall population;

(c) The lack of information about whether the scope of measures to ensure political representation include Indigenous peoples and Quilombolas;

(d) The low level of political representation of Afro-Brazilian, Indigenous and Quilombola women;

(e) Threats, hate speech, including online, harassment and violence toward Afro-Brazilian women, particularly those seen as LGBTQI+, seeking or holding political office and a lack of accountability for such human rights violations (arts. 2, 4, 5 and 6).

26. The Committee recommends that the State party take all effective measures to substantially increase levels of political representation among Afro-Brazilians, Indigenous peoples and Quilombolas, women and men, including by:

(a) **Identifying and addressing all obstacles to political representation of these groups within relevant institutions, including the National Congress and bodies at the State and municipal levels;**

(b) **Undertaking a review of the current measures in place, and developing and implementing proposals, in consultation with representatives from Afro-Brazilian, Indigenous and Quilombola communities, for more effective mechanisms to guarantee adequate political representation;**

(c) **Taking immediate action to prevent and address all forms of violence against Afro-Brazilian women seeking or holding political office, including those identified as LGBTQI+, holding perpetrators accountable and providing remedies to victims.**

Special measures

27. The Committee notes information provided by the State Party about special measures in the legislature, judiciary and public service sectors but is concerned by a lack of clarity about their scope, status and/or efficacy (arts. 2 (2), 4 and 5).

28. The Committee recommends that the State party adopt and strengthen the use of special measures across all relevant public and private bodies to eliminate significant and persistent disparities in the enjoyment of human rights and fundamental freedoms between white Brazilians and Afro-Brazilians, Indigenous peoples and Quilombolas. The Committee recalls that, in accordance with its general recommendation No. 32 (2009)⁸ on special measures, federal authorities are responsible for designing a framework for the consistent application of special measures in all parts of the State and that these measures should be designed and implemented on the basis of prior consultation with, and the active participation of, affected communities.

⁸ CERD/C/GC/32

Racist hate speech and hate crimes

29. The Committee is concerned by:

(a) Rising numbers of incidents of racist hate speech and racist hate crimes in the State party, based on harmful racial stereotypes, often perpetuated in the media;

(b) Multiple incidences of racist hate speech by public authorities, including high-level members of government;

(c) The lack of information about whether the legislative framework, including provisions within the criminal code penalising the crime of “racial slur”, cover all forms of racist hate speech, as required by article 4 of the Convention;

(d) Uncertainties in the legislative framework addressing online hate speech, and the lack of information on the application and implementation of criminal law to cyberspace;

(e) The lack of information about steps taken to address the root causes and prevent racist hate speech and hate crime, including through addressing the frequent dissemination of harmful racial stereotypes in the media;

(f) The fact that, despite the rising incidences of a multitude of forms of racist hate speech and racist hate crimes, the rate of prosecution and conviction remains extremely low (art. 4).

30. Recalling general recommendations No. 35 (2013) on combating racist hate speech⁹, the Committee recommends that the State party:

(a) Review the legislative framework in place to ensure that all forms of racist hate speech, as defined by article 4 of the Convention, including online racist hate speech, are encompassed by the anti-discrimination legislation of the State party and made an offence;

(b) Address the uncertainty about whether cyberspace is fully legally recognised as a domain within which crimes can occur and to which the anti-discrimination laws of the State party apply;

(c) Take specific steps to prevent hate speech by public authorities, including high-level members of government and hold them fully accountable;

(d) Take effective measures to facilitate and encourage the reporting of racist hate speech, including online, and hate crimes, in particular by ensuring the availability and accessibility of reporting channels;

(e) Urgently identify and address the root causes of the very low rates of prosecution and conviction for racist hate speech, including online, and hate crime, through examining burden of proof standards, strengthening the system of legal aid for victims of discrimination, providing training to police, prosecutors and judges on methods for identifying, registering, investigating and prosecuting cases of racist hate speech and hate crimes, taking measures to enhance the representation of members of groups which are vulnerable to discrimination in law enforcement and the judicial system, and taking other measures to strengthen the trust of victims of racist hate speech and hate crimes in law enforcement and the judicial system;

(f) Collect disaggregated data on complaints, prosecutions and convictions for racist hate speech and racially motivated hate crimes, as well as the penalties imposed for such acts, and include these data in its next periodic report.

Racially motivated homicides

31. The Committee is concerned by the extremely high rates of homicide and violent deaths of Afro-Brazilians, including children, in the State party, by unidentified assailants It

⁹ CERD/C/GC/35

notes, with profound concern, that homicide is the main cause of death among male Afro-Brazilians aged between 15 and 29 years old. The Committee welcomes recognition by the State party of the need for large-scale action but regrets that limited information was provided about concrete measures, proportionate to the scale of the problem, taken to prevent homicides or ensure accountability for such crimes. It is concerned that the implementation of the Juventude Viva Plan, described by the State party, in its periodic report, as its main response to the high homicide rate among young, male Afro-Brazilians, has been suspended several times in recent years. The Committee is further concerned by trends in increasing gun sales to private citizens within the State party and the lack of information about measures taken to effectively regulate and reduce private firearms ownership (arts. 2, 4, 5 and 6).

32. The Committee recommends that the State party:

(a) Ensure the continued and uninterrupted implementation of the Juventude Viva Plan or equivalent measures;

(b) Take large-scale action to prevent and address the high number of homicides of Afro-Brazilians and to ensure full accountability for such crimes, inter alia by implementing a national programme aimed at reducing the number of homicides, based on a thorough assessment of the problem, which includes consultation with and participation of the affected communities, which addresses the issue on both the federal and state levels and includes concrete and measurable goals;

(c) Ensure more effective and comprehensive regulation of private firearms ownership and take measures to restrict gun sales to private citizens and the dissemination of firearms in general.

Excessive use of force by law enforcement and military officials

33. The Committee is deeply concerned by the persistent use of excessive and lethal force by law enforcement and military officials in Brazil. It is gravely concerned that according to the Brazilian Yearbook of Public Security of 2022, 84.1% of victims of police violence in 2021 were Afro-Brazilians.¹⁰ In particular, the Committee is concerned about:

(a) Multiple incidents of highly militarised police raids in favelas undertaken by law enforcement officials from multiple State security entities, including the military, the civilian police and the Brazilian Highway Police;

(b) The use, during these raids, of heavy and indiscriminate machine gun fire in densely populated areas, resulting in the death and injuries of predominantly Afro-Brazilian civilians, who are residents of favelas, including pregnant women and children;

(c) Reports of other forms of serious violence perpetrated by law enforcement officials during raids in favelas, including sexual violence and beatings perpetrated against predominantly Afro-Brazilians;

(d) Such raids taking place during the COVID-19 pandemic despite Federal Supreme Court judgements ordering their cessation;

(e) Inconsistent implementation of other Federal Supreme Court judgements, including those ordering the use of body cameras by law enforcement officials;

(f) Legal provisions and practices that shield law enforcement officials from accountability, including a lack of effective and timely independent investigations into grave incidences of the excessive and lethal use of force, the presumption that force was justified and the application of military law in some cases of excessive and lethal use of force which took place during civilian policing activities;

¹⁰ <https://forumseguranca.org.br/wp-content/uploads/2022/07/05-anuario-2022-letalidade-policia-cai-mas-mortalidade-de-negros-se-acentua-em-2021.pdf>

(g) Reports that legislative proposals (Bill No.733/2022) that would expand the legal protections afforded to law enforcement officials who engage in the excessive and lethal use of force, if adopted;

(h) A lack of access to justice and remedies among victims and their families.

34. The Committee also noted the lack of full recognition by the State party of both the gravity and enormity of the problem and of the scope of their positive responsibilities under the Convention, and broader international law, to take immediate and comprehensive measures to prevent, end and ensure accountability for these grave human rights violations against Afro-Brazilians. This is despite previous engagement on this issue by a wide range of UN human rights bodies, including the Special Rapporteur on the extrajudicial, summary or arbitrary executions, the Sub-Committee on the Prevention of Torture and the Special Rapporteur on contemporary forms of racism (arts. 2, 5 and 6).

35. **The Committee recommends that the State party take immediate and decisive action to end the excessive and lethal use of force by law enforcement and military officials, including by:**

(a) **Ensuring the demilitarization of law enforcement activities in Brazil;**

(b) **Ensuring that guidelines and manuals used to train all relevant law enforcement and security officials outline protocols for the use of force, according to the principles of proportionality, necessity, and legality, along with standards relating to racial equality, and that training is effective and frequent;**

(c) **Ensuring the deployment of less lethal weapons during policing activities, particularly in areas densely populated with civilians, including Afro-Brazilians;**

(d) **Fully complying with and effectively implementing all judgements of the Federal Supreme Court relating to the excessive and lethal use of force;**

(e) **Strengthening independent oversight mechanisms with regard to all law enforcement entities in the State and ensuring that protocols for timely, effective and independent investigations, which give due consideration to concerns of racial discrimination, are in place and rigorously applied in all cases of the use of force by law enforcement officials resulting in the death or injury of civilians;**

(f) **Identifying and amending legal provisions and practices that are hindering accountability among law enforcement officials who engage in the excessive and lethal use of force against Afro-Brazilians, including pending legislative proposals that would expand protection afforded to law enforcement officials and ending the application of military law in cases of excessive or lethal force which took place during civilian policing activities;**

(g) **Providing effective remedies, which guarantee non-repetition of violation, compensation and public apologies for all victims of police brutality and their families;**

(h) **Consulting with representatives of Afro-Brazilian communities on all measures to address police brutality.**

Criminal justice

36. The Committee is concerned about the disproportionately high number of Afro-Brazilians, particularly young people and women, who are imprisoned within the state party, including the high proportion of those held in pre-trial detention. It notes some measures taken by the State party to address recidivism and to apply human rights standards to the criminal justice system, such as the “Race/Color in the Prison System: respect and access to rights” project. The Committee is nevertheless concerned by the gravity of the problem, as well as by a lack of effective measures to address the root causes of the disproportionate incarceration rates of Afro-Brazilians, including over policing, racial profiling, systemic racial discrimination within law enforcement agencies and other institutions involved in the

administration of justice and policies that criminalise drug possession. The Committee is furthermore concerned by reports of unacceptable conditions in prisons, including overcrowding, mistreatment and violence (arts. 2, 5 and 6).

37. Recalling its General recommendation No. 31 (2005)¹¹ on the prevention of racial discrimination in the administration and the functioning of the criminal justice system, the Committee recommends that the State party undertake a thorough review of relevant laws, policies and practices to effectively address the root causes of the disproportionate incarceration rates of Afro-Brazilians, including overpolicing, racial profiling, systemic discrimination within law enforcement agencies and other institutions involved in the administration of justice and policies that criminalise drug possession. The Committee furthermore calls on the State party to take measures to ensure that the conditions in prisons are in line with international standards. In the meantime, the State party should take all necessary steps to reduce drastically the number of overrepresented Afro-Brazilians within prisons.

Racial profiling

38. The Committee is concerned by the persistence of the practice of racial profiling of Afro-Brazilians by law enforcement officials. The Committee is also concerned by reports that individuals facing intersectional forms of discrimination, including Afro-Brazilians with disabilities and/or identifying as LGBTIQI+, have been particularly vulnerable to racial profiling. The Committee is further concerned by reports that the State party has started using facial recognition systems in law enforcement activities, which has led to wrongful arrests of predominantly Afro-Brazilians (arts. 2, 4, 5 and 6).

39. Recalling its General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials¹², the Committee recommends that the State party intensify efforts to combat racial profiling, including by:

(a) Undertaking prompt, thorough and impartial investigations into all allegations of racial profiling, holding those responsible to account and providing remedies to victims, including guarantee of non-repetition;

(b) Reviewing all policies, laws and regulations with a view to ensuring that racial profiling does not take place and is not facilitated;

(c) Assessing the human rights impact of facial recognition systems to ensure they are not entrenching inequalities or producing discriminatory results;

(d) Putting in place comprehensive data collection mechanisms to monitor all incidents of racial profiling and report on their outcome.

Peaceful assembly

40. The Committee is concerned by the excessive use of force by law enforcement officials against Afro-Brazilians, and others, during peaceful anti-racism protests, including an incident whereby individuals reportedly partially lost their vision due to injuries resulting from the use of rubber bullets (arts. 2, 5 and 6).

41. The Committee recommends that the State party takes all necessary measures to respect the right of peaceful assembly among Afro-Brazilians. The State party should strictly uphold the principles of legality, necessity, and proportionality in the policing of assemblies and undertake prompt and thorough investigations into all complaints of the excessive use of force by law enforcement officials during protests, holding those responsible fully accountable and providing remedies to victims.

¹¹ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7503&Lang=en

¹² Ibid

Persecution of the practice of Afro-Brazilian religions

42. The Committee is deeply concerned by:

(a) High and growing numbers of cases of religious intolerance and discrimination, fuelled by discriminatory depictions of Afro-Brazilian religions, including terreiro religions, in the media;

(b) Inadequate protection against various forms of attacks by private individual on the grounds of religion, including discrimination, violence and desecration of religious sites;

(c) Institutionalised forms of religious intolerance and discrimination, including violent attacks by law enforcement officials, the criminalization of their faith under offences, such as charlatanism and the practicing of traditional medicine, and a lack of sensitivity to Afro-Brazilian religions within the justice system;

(d) The fact that women who practice Afro-Brazilian religions experience their religion being negatively taken into account in decisions over custody of their children;

(e) The lack of accountability for attacks and discrimination against people who practice Afro-Brazilian religions (arts. 2, 4, 5 and 6).

43. **The Committee recommends that the State party:**

(a) **Address discriminatory depictions of Afro-Brazilian religions and encourage religious plurality;**

(b) **Review the legislative and policy measures in place to uphold religious plurality and freedom of religion, in consultation with representatives from Afro-Brazilian religions;**

(c) **Take all necessary steps to end practices whereby decisions about women's custody over their children is negatively impacted by their religious denomination;**

(d) **Raise awareness of reporting mechanisms, such as the Disque 100 reporting line, increase the capacity of the Public Defender's office and Federal Prosecutor's office to address violence against discrimination on the basis of religious intolerance and address the treatment of those adhering to Afro-Brazilian religions in the justice system;**

(e) **Hold all perpetrators of religious intolerance, including private and State actors, to full account for violations of the human rights of people practicing Afro-Brazilian religions and provide effective remedies to victims, including compensation, the rebuilding of destroyed religious sites, and/or psychosocial care.**

Human rights defenders

44. The Committee is concerned by reports of threats, harassment, violent attacks and killings against Afro-Brazilian, Indigenous and Quilombola human rights defenders, including women. It notes, with concern, that the Special Rapporteur on human rights defenders named Brazil as the second most dangerous country in the world for defenders between 2015 and 2019.¹³ It is concerned by the absence of specific legislation to protect human rights defenders and that the Programme for the Protection of Human Rights Defenders, Social Communicators and Environmental Defenders has been allocated inadequate budgetary resources and has not been able to provide meaningful protection to Afro-Brazilian, Indigenous and Quilombola human rights defenders facing threats. The Committee is also concerned by the abuse of counter-terrorism law to criminalize human rights defenders, draft legislation that would further extend counter-terrorism legal frameworks in ways that would create potential for abuse, and about the pervasive impunity

¹³ A/HRC/46/35, paras. 41, 44 and 75

for threats, harassment, violent attacks and killings against Afro-Brazilian, Indigenous and Quilombola human rights defenders (arts. 5 and 6).

45. The Committee recommends that the State party takes all necessary steps to prevent, investigate and punish accordingly all forms of threats, harassment, violent attacks and killings against Afro-Brazilian, Indigenous and Quilombola human rights defenders. The State party should promulgate specific legislation to protect human rights defenders also provide additional funding for the Programme for the Protection of Human Rights Defenders, Social Communicators and Environmental Defenders and consult with affected groups on how the programme can effectively meet the needs of Afro-Brazilian, Indigenous and Quilombola human rights defenders. The State party should further take comprehensive and effective measures to ensure that counter-terrorism laws do not criminalize the work of human rights defenders and address impunity for threats, harassment, violent attacks and killings through timely and thorough criminal investigations, as well as the provision of remedies to victims.

Development, environment, business and human rights

46. The Committee is concerned by reports of repeated, varied and growing invasions of indigenous and quilombola lands, by multiple actors, including businesses, taking part in mining activities, deforestation and logging, both legal and illegal. It is deeply concerned that such activities are taking place without the free, informed and prior consent of Indigenous peoples and Quilombola communities. It is also concerned that the environmental destruction caused by these invasions and the subsequent extraction of natural resources exposes Indigenous peoples and Quilombola communities to significant health hazards, such as mercury poisoning and exposure to infectious diseases, and undermines the right to access a clean, healthy and sustainable environment for all. The Committee is concerned by reports of retrogression in the national environmental regulation, as well as the abandonment of the Action Plan to Prevent and Control Deforestation in the Amazon. It regrets the lack of information provided about a National Plan on Business and Human Rights with the participation of representatives from affected communities (art. 5).

47. The Committee recommends that the State party:

(a) Take all necessary measures to protect the land of Indigenous peoples and Quilombola communities, including through decisive steps to end illegal logging, deforestation and mining;

(b) Rigorously uphold the principle of free, informed and prior consent, as established by article 16 of the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), in all projects impacting Indigenous peoples and Quilombola communities and their lands;

(c) Protect and promote the right to a clean, healthy and sustainable environment, including through preventing and mitigating the effects of environmental destruction, resulting from extractive activities taking place within indigenous and quilombola lands;

(d) Stop retrogression within the legal and policy frameworks regulating the environment and deforestation;

(e) Develop and effectively implement a National Plan on Business and Human Rights with the participation of civil society, particularly organisations representing the most affected groups.

Indigenous peoples and Quilombola communities

48. The Committee is concerned about:

(a) Violence against Indigenous peoples and Quilombola communities, including killings, often taking place in the context of defence of their land and/or as a result of their work as indigenous human rights defenders;

(b) Indigenous and Quilombola women being subjected to endemic levels of violence, including threats, harassment, sexual violence and femicide;

(c) Pervasive impunity for serious violence against Indigenous peoples and Quilombola communities;

(d) The significant institutional weakening of the National Indian Foundation (FUNAI) in recent years, including through significant budget cuts;

(e) National laws and policies not reflecting the diversity of Indigenous peoples and Quilombola communities (arts. 5 and 6).

49. The Committee recommends that the State party:

(a) Takes steps to prevent and address the root causes of violence against Indigenous peoples and Quilombolas, including women, in full consultation with Indigenous and Quilombola communities and women;

(b) Undertakes timely and effective investigations into all incidents of violence against Indigenous peoples and Quilombolas, including human rights defenders and women, ensuring accountability among perpetrators and the provision of remedies to victims;

(c) Develops policies and law that fully reflect the needs of Brazil's diverse range of Indigenous peoples and Quilombolas in consultation with representatives from these communities;

(d) Ensures that FUNAI can effectively fulfil its mandate, including through the provision of adequate funding.

The legal protection of indigenous and quilombola land

50. The Committee is concerned that despite the State party articulating to the Committee in 2004 that they hoped the process of indigenous and quilombola land demarcation would be completed by 2007¹⁴, progress has stalled, with no new land demarcations taking place since 2016. The Committee takes note of the information provided by the State party, during the dialogue, about the impact of the COVID-19 pandemic on the process, but is nevertheless concerned, particularly as land demarcation stalled several years prior and reports suggest the budget for the demarcation process was subject to Presidential veto in 2022. The Committee is also deeply concerned about the application and institutionalisation of the Temporal Landmark thesis, whereby only land occupied by Indigenous peoples at the time of the passing of the Constitution in 1988 is considered eligible for demarcation. The Committee is further concerned, by reports that in the context of stalling indigenous and quilombola land demarcation, the judiciary are using the "security suspension mechanism" to authorise projects on indigenous lands, without their free, informed and prior consent. Moreover, the Committee is concerned by reports of legislative proposals developed without consultation with Indigenous peoples and Quilombola communities, such as Bill 191/2020, which would allow for the economic exploitation of natural resources within indigenous land, and a weakening of environmental regulatory frameworks.

51. The Committee is concerned about the impact of the lack of effective legal protections on the rights of the Munduruku and Yanomami communities who have reportedly been subjected to grave violations of their human rights, resulting in the Inter-American Commission on Human Rights issuing precautionary measures. The Committee is also concerned about reports that the Inter-American Commission on Human Rights submitted to the Inter-American Court of Human Rights the Case of the Quilombola Communities of Alcântara, regarding the infringement of the collective property of 152 communities, due to the failure to issue land titles, the installation of an aerospace base without due consultation and prior consent, the expropriation of their lands and territories, and the lack of judicial remedies for the situation (arts. 5 and 6).

¹⁴ CERD/C/64/CO/2, para.15

52. Recalling its previous concluding observations¹⁵ and General recommendation No. 23 (1997)¹⁶ on the rights of Indigenous peoples, the Committee recommends that the State party recommences and expedites the process of demarcating indigenous and quilombola lands, including by ensuring that adequate budgetary resources are assigned to this work. It urges the State party to reject and end the application and institutionalisation of the Temporal Landmark thesis. The State party should also reject and suspend use of the “security suspension mechanism” and rigorously apply the principle of free, informed and prior consent, as per article 16 of the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), in legal proceedings for all projects affecting indigenous and quilombola land. The State party should also immediately halt and redress any retrogression within the national legal framework to protect indigenous and quilombola land. The State party should also take all necessary steps to fully protect the land rights of the Munduruku, Yanomami and Alcântara communities, including full compliance with relevant precautionary measures issued by the Inter-American Commission on Human Rights. The State party should also provide remedies, including guarantee of non-repetition, for all human rights violations resulting from the lack of effective legal protection of indigenous and quilombola land.

Migrants, refugees and asylum seekers

53. The Committee is concerned by the issuance, in 2020, of a wide range of administrative rules to impose restrictions on entry to the country with no exceptions for those seeking international protection. The Committee is concerned that the closure of safe and legal migration channels, without exceptions for those seeking international protection, creates vulnerability to trafficking and regrets the lack of information provided by the State party on how gender and race were integrated into the Third National Plan to Combat Trafficking and how the plan is being effectively implemented. The Committee is also concerned by reports that migrants, refugees and asylum seekers, particularly those from Venezuela, have experienced discrimination and xenophobia, including in relation to access to social protection services and the labour market (arts. 2 and 5).

54. The Committee recommends that the State party ensure that all administrative instructions introduced in 2020 to restrict access to Brazil are terminated and that measures are taken to guarantee the rights of those who may have entered the State party’s territory during that period, as per the provisions of the 2017 Migration Law (Law No. 13,445/2017). It also urges the State party to take steps to ensure that all anti-trafficking efforts, including the Third National Plan to Combat Trafficking, fully integrate consideration of gender and race and are fully and effectively implemented. It also recommends that the State party prevents and addresses all forms of discrimination and xenophobia against migrants, refugees and asylum seekers.

Roma

55. The Committee regrets the lack of information about the collection of data on the situation of Roma. The Committee also remains concerned about the lack of progress to provide Roma with universal access to civil documents, including birth registration (art. 5).

56. The Committee reiterates its recommendation for the State party to eliminate all barriers and forms of discrimination in relation to birth registration¹⁷ and ensure Roma have universal access to civil documents. It also recommends that the State party take steps to ensure that comprehensive data is collected on the situation of Roma in order to develop and monitor the effectiveness of laws, policies and programmes designed to uphold their human rights.

¹⁵ Ibid

¹⁶ https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fGEC%2f7495&Lang=en

¹⁷ CERD/C/64/CO/2, para.17

Efforts to combat racial prejudices, increase understanding and address legacies of historical injustices

57. The Committee notes that racism in Brazil is structural, intersectional, and multi-layered throughout all institutions of economic, social, cultural, and political life, and is an inheritance from the formation of the Brazilian State based on the conquest of Indigenous peoples and an estimated 5 million of enslaved Africans. The Committee welcomes the recognition, by the State party of the country's history of colonialism and slavery, but, notes, with concern, the lack of information about any broad-based initiatives to provide redress for the legacies of the past which continue to fuel multiple forms of racism and racial discrimination in the State party, undermining the full enjoyment of all human rights and fundamental freedoms on an equal basis by all Brazilians.

58. The Committee brings to the attention of the State party Art. 7 which calls on States to undertake measures to promote understanding and tolerance among racialised groups in the population, particularly, through initiatives of education, culture, and public information. The Committee is concerned that Law No.10 639/2003 concerning study of African and Afro-Brazilian history has not been effectively implemented, particularly in recent years. The Committee is also concerned that the Palmares Cultural Foundation, as one of the primary institutions to preserve the cultural, social and historical values of Afro-Brazilian society, has demonstrated hostility to the values it is designed to uphold (arts. 2 and 7).

59. Recalling the importance of education in combating prejudices that lead to racial discrimination and promoting understanding, tolerance and friendship among all groups in the society, as established in article 7 of the Convention, and the importance of addressing structural racism lurking within all institutions of the society, the Committee recommends that the State party:

(a) Develop and implement, in consultation with Afro-Brazilian and Indigenous peoples, guidelines to combat institutional racism within all public institutions;

(b) Implement mandatory training for all public servants on inter-group relations and the fight against institutional racism within the public administration and establish indicators to measure the extent to which officials implement those guidelines;

(c) Ensure that the Palmares Cultural Foundation faithfully fulfils its mandate by establishing and implementing indicators to measure programs as against the Foundation's mission, provide a process for public evaluation of the work of the Foundation by members of the community that it is to serve, and also periodically apply those indicators to evaluate progress and make positive changes;

(d) Takes all necessary steps to effectively finance and robustly implement programmes under Law No.10 639/2003 concerning the study of African and Afro-Brazilian history, establish indicators, in consultation with the whole of the community, to measure the effectiveness of the programmes and periodically apply those indicators to evaluate progress and make positive changes;

(e) Engage in discussions with representatives of the Afro-Brazilian, Indigenous and Quilombola communities leading to the establishment of a national commission to study and develop proposals for reparations as redress for historical injustices.

Other recommendations**Ratification of other treaties**

60. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Amendment to article 8 of the Convention

61. The Committee recommends that the State party accept the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

62. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Follow-up to the Durban Declaration and Programme of Action

63. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

64. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies in collaboration with organizations and people of African descent. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

65. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination and including organizations representative of the groups most exposed to racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

66. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention at the federal, state and local levels, and in the territories referred to in paragraph 4 above, and publicized on the website of the Department of State in the official and other commonly used languages, as appropriate.

Follow-up to the present concluding observations

67. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of

the recommendations contained in paragraphs 16(a) on COVID measures, 22 (a) on cash transfers, 18 (c) on education, and 35 (a, b, c, d) on excessive use of force by law enforcement and military officials.

Paragraphs of particular importance

68. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 16 (b, c, e, f) on the right to health and the impact of the COVID-19 pandemic, 22 on poverty, work and income, 26(c) on political violence, 32 on homicides, 45 on human rights defenders, 47 on development, environment, business and human rights, 49 on indigenous peoples and Quilombola communities, 52 on the legal protection of indigenous and quilombola land and 59 (e) on reparations above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

69. The Committee recommends that the State party submit its combined 20th to 22nd periodic reports, as a single document, by 2026, taking into account the reporting guidelines adopted by the Committee during its seventy-first session¹⁸ and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

¹⁸ [CERD/C/2007/1](#).