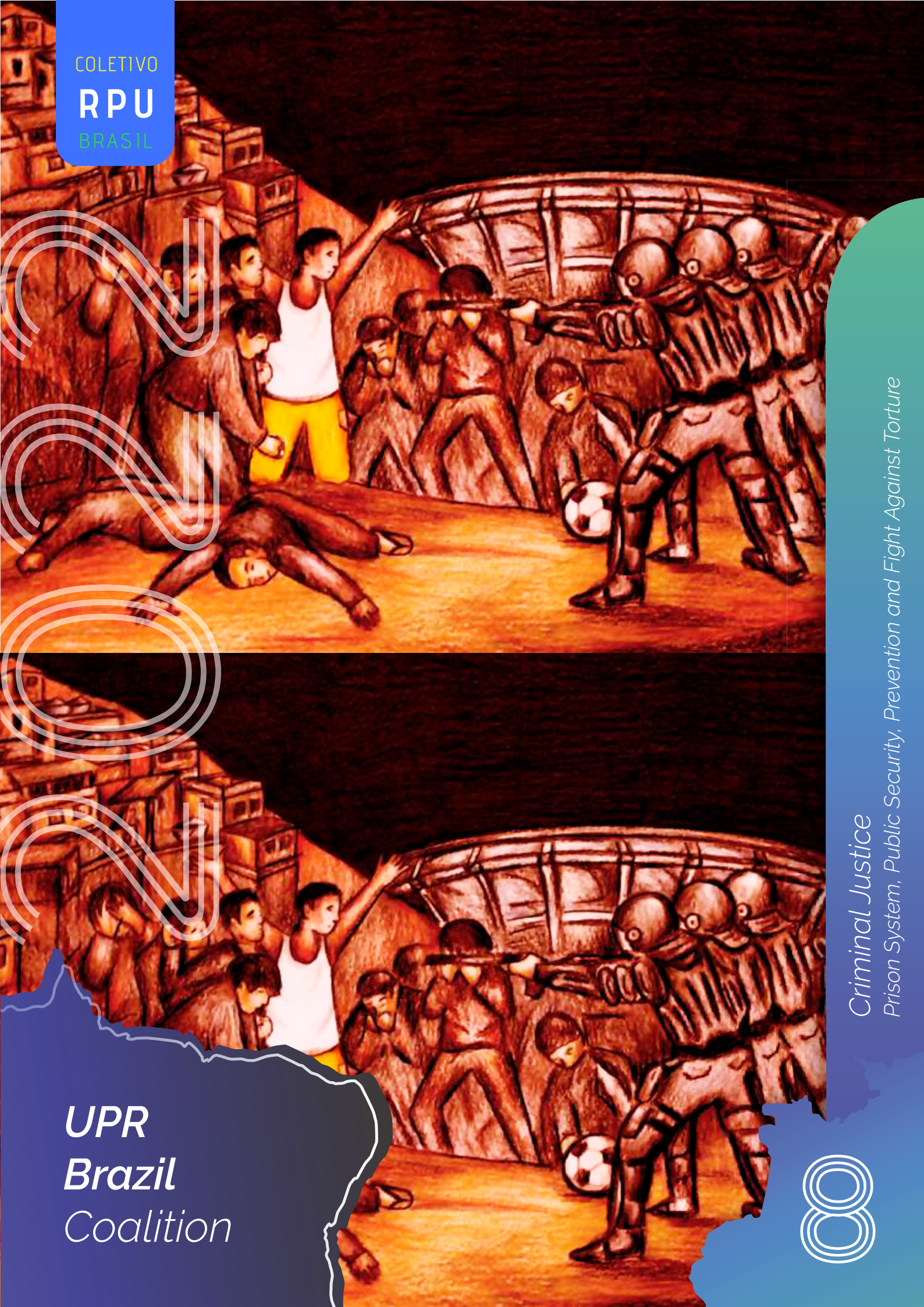


COLETIVO  
**RPU**  
BRASIL



**UPR**  
**Brazil**  
Coalition

*Criminal Justice*  
*Prison System, Public Security, Prevention and Fight Against Torture*



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# UPR Brazil Coalition

Joint Submission sent to the United Nations High Commissioner for Human Rights as a parallel report of civil society to attend the Universal Periodic Review Working Group in its 41st Session (Nov 2022), 4th cycle of Brazil

2022



**FRIEDRICH  
EBERT  
STIFTUNG**

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March 2022

# About the **UPR Coalition**

The UPR Brazil Coalition is a coalition composed of 31 entities, networks and collective groups of Brazilian civil society. From its creation, since 2017, it has monitored the human rights in the country through the United Nations Universal Periodic Review (UPR) mechanism.

In 2019, it drafted its first Mid-Term Report, in which it assessed 163 recommendations of the 242 accepted by Brazil in this 3rd cycle. From these, 142 were considered as not implemented, 20 partially implemented and only 1 implemented.

In 2020, on the grounds of the pandemic of the novel coronavirus, the UPR Brazil Coalition opted to prepare a new report, called "Civil society report: Human Rights Universal Periodic Review in the Context of Covid-19", whose objective was to denounce

in-depth violations of human rights that have already been evidenced by the group, as well as to record new violations that have occurred at this time of institutional, health and economic crises, as a result, but not only, of the Covid-19 pandemic.

The Report in the Context of Covid-19 evaluated 190 recommendations, 142 of which were considered as not implemented, 47 partially implemented and only 1 was considered to be implemented.

Considering the civic participation in the UPR process, Brazilian civil society participates in the preparation of parallel reports. For this, in this transition from the 3rd to the 4th cycle, the UPR Brazil Coalition articulated to evaluate here the 242 recommendations accepted by the Brazilian State in 2017.



# ***Easily** navigate through document*

*This is an interactive PDF.*



Click on the arrows to  
proceed or return to a page;

[Blue underlined word](#)

To check external content, just  
click on the hyperlink as in the  
example to the side.

*Good reading.*

# Methodology

For the drafting of this report, following a methodology similar to that of the [Mid-Term](#) and in the [context of Covid-19 Reports](#), the UPR Brazil Coalition selected and evaluated 242 recommendations, divided into 11 joint submissions, based on topics of human rights and the public affected.

## Thus, It features:

- a) the assessments of the recommendations, indicating the level of compliance with these as "Implemented", "Partially implemented" or "Not implemented". In the latter case, indicating whether the topic assessed, in addition to not being implemented, is also in a situation of setback;
- b) for each evaluation, it presents a small text containing data (laws, public policies, official publications, newspaper articles, among others) that justify the assessment;
- c) associated with one or more of the Sustainable Development Goals (SDGs) of the 2030 Agenda.



<sup>1</sup>Civil Society Mid-Term Report | 3rd cycle of the UPR. Mid-Term Report

<sup>2</sup>Civil society report: Human Rights Universal Periodic Review in the context of Covid-19. Relatório RPU.indd (plataformarpu.org.br)

# Reports prepared by the **UPR Brazil Coalition:**

1

## **Health and dignified life:**

*Right to health; Sexual and reproductive health;;*

2

## **Gender equality and non-discrimination:**

*Sexual orientation and gender identity; Discrimination against women;  
Violence against women; Participation of women in political and public life;*

3

## **Human rights defenders and democratic space:**

*Female and male human rights defenders; Freedom of expression and the  
right to communication; Human rights and anti-terrorism;*

4

## **Children and adolescents and decent work:**

*Children and Adolescents; Labor; Prohibition of slavery; Human trafficking;*

5

## **Education, austerity and discrimination:**

*Right to education; Education in Human Rights;*

6

## **Poverty reduction and the fight against inequalities:**

*Right to adequate housing; Right to an adequate standard of living (poverty  
reduction and the fight against inequalities); Human rights, drinking water and  
sanitation; Right to adequate food and nutrition, Food security;*

7

## **Indigenous Peoples and the Environment:** Indigenous peoples; Environment;

8

## **Criminal Justice: Prison System, Public Security, and Torture:**

*Extrajudicial, summary or arbitrary executions; Prohibition of torture and cruel,  
inhuman or degrading treatment; Detention; Administration of justice and fair trial;*

9

## **Migration, refuge, racism and (in)equalities:**

*Migrants and refugees; Racism; Equality and non-discrimination;  
Persons with disabilities; Quilombolas;*

10

## **Obligations and Commitments to Human Rights:**

*Institutions and policies; Constitutional and legislative framework; Acceptance of international  
standards; International cooperation; National Institution of Human Rights (NHRI);*

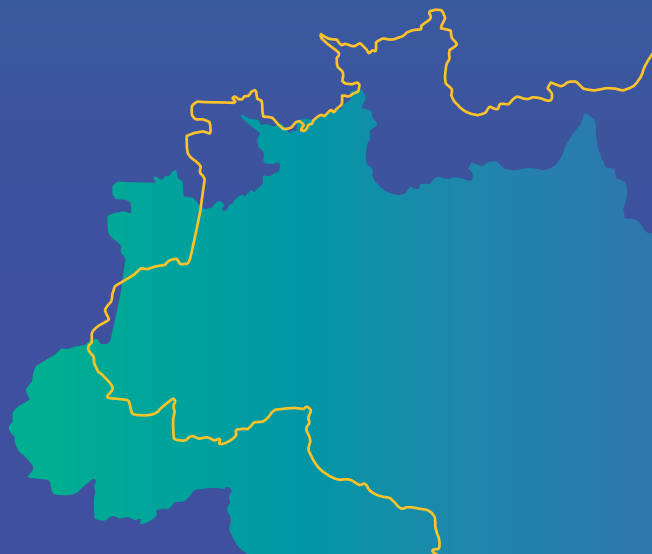
11

## **Business and Human Rights:** Business; Human Rights.

## *Hope under Torture*

This report of the UPR Brazil Coalition, corroborates with a set of reports produced by civil society organized in 2021. Based on material evidence through official data, collected and systematized by non-governmental organizations, show a country that is taking a serious step backwards in legally settled rights and moves toward socio-environmental and political barbarism, as a result of the direct actions of the current federal government and its allies in subnational governments and in the National Congress. Through forged alliances in exchange for the release of public resources without transparency or republican criteria<sup>1</sup>, the politics in the country are a farce with institutional backing that consumes the public coffers to expand the private privileges of those elected.

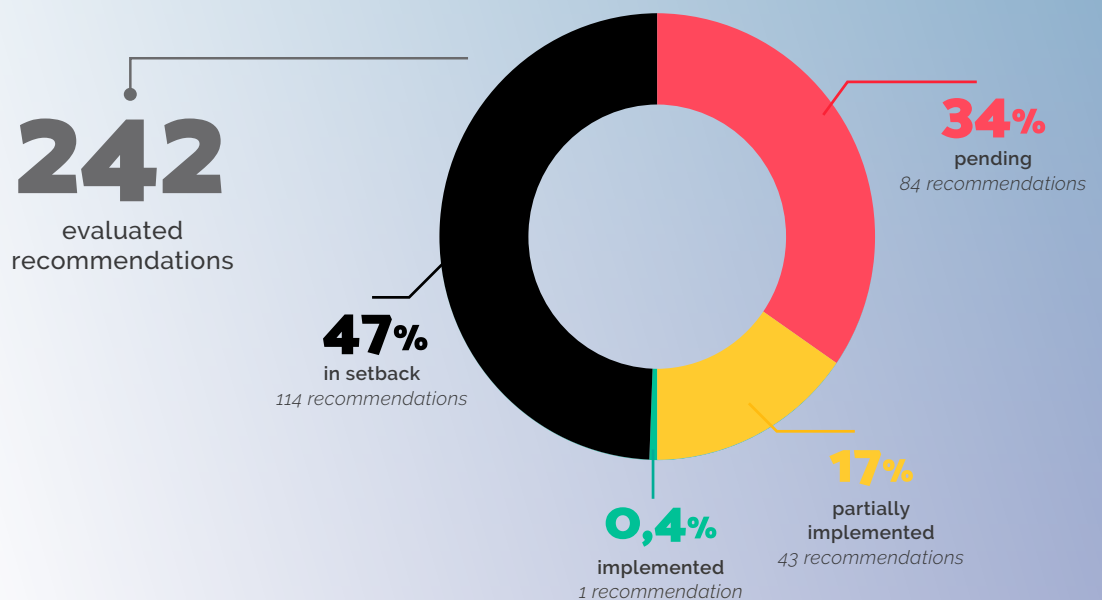
<sup>1</sup>Secret budget was of R\$ 16 billion in 2021



# Executive Summary

The UPR Brazil Coalition this year evaluated 242 recommendations made by countries in the UN Human Rights Council to Brazil. The analyses indicate a very serious situation: almost half (**47%**) of all the recommendations, besides not being put into practice, are in setback. By adding up to one third (**34%**) of the constantly pending items, **80% of them are not being implemented**. Only **17%** of the recommendations are being partially implemented and **only one has been implemented**.

## Overview



This report, therefore, portrays the weakening of the capacity of public institutions to serve the population of the country and, in relation to the international community, more than neglect in complying with the agreements, indicates the violations of the Brazilian state in relation to the socioeconomic and environmental rights.

In the following chapters, we present the dismantling of public policies structured for Brazil, particularly those directed at the most vulnerable populations, and which have been improving in recent decades to reduce social, racial, gender and economic inequalities.

Faced with the challenges presented, we urgently call on the democratic institutions of the republic to reverse the current setbacks, including the proven inadequate management of the new coronavirus pandemic that has already led to the death, at the closing of this report, of more than 620,000 people. [The research of the Institute of Public Health of the University of São Paulo in partnership with the non-governmental organization Conectas Direitos Humanos<sup>2</sup>](#), mapped 3,049 norms, laws and administrative acts of the federal government during the first year of the pandemic that show the evident intention of spreading the virus in the country, with the aim of social, ethnic and economic cleansing, taking into account the percentage of contingency of unintentional “casualties”, demonstrating the logic of the shrewd military thinking. [Another evidence of the announcement made by the president himself in his inaugural speech that he had not come to build, but to destroy<sup>3</sup>](#).

<sup>2</sup>Pandemic Rights Bulletin no. 10: Mapping and analyses of the legal rules of response to the Covid-19 in Brazil. São Paulo: January 20, 2021. Available on: <https://cepedisa.org.br/publicacoes/>

<sup>3</sup>Bolsonaro: I have not come to build anything, I am here to destroy – Iser Assessoria; 1,000 days of infamy, counter-orders and restlessness | Articles by Elias Fragoso | Opinião - Jornal Extra de Alagoas

The data presented here, produced by the technical body of the public institutions in their areas, show a Brazil in a collision course with the agreements and commitments that it built and assumed of promoting, defending and repairing human rights and with the reduction of inequalities. They are evidence of a perpetual state of exception as a method of administration, generating loss of resources and, worse, of human lives and ecosystems.

Brazil continues to be one of the most dangerous countries for advocates of rights, in particular environmental activists, and trans people around the world. While we were writing this summary, in January 2022, [three people from a family of riparian environmentalists in Pará were executed<sup>4</sup>](#), adding to a series of executions in that territory that have still not been punished in the court of law. Moreover, the country occupies the four worst places in the rankings of murder of indigenous people, women and gay people; with the structural racism of the public security system revealing itself in the deaths practiced by the police against young people, mostly black and residents of the poorest communities of the Brazilian metropolises. In addition, we emphasize the ongoing attack on indigenous peoples who have seen the violation of their territories and rights grow exponentially: according to Articulação dos Povos Indígenas do Brasil (APIB), the Bolsonaro government has transformed its hate speech into state policy, aggravating a situation that was already quite fragile as shown in other parts of the country by the UPR: the current government is working on the non-demarcation of more indigenous territories and to make environmental protection more flexible for those territories already demarcated and approved.

<sup>4</sup>Riverine people are slaughtered in an area of deforestation in PA - January 13, 2022 - Cotidiano - Folha



The country has also lost in terms of transparency. And it is not only the President of the Republic's vaccination certificate that has been kept secret, but efforts are growing to make government documents, which should be public, a State secret. In addition to the funding cut of institutions, such as the Brazilian Institute of Geography and Statistics and the data collection mechanisms, such as CENSO, there are strong attacks on the Law on Access to Information. While it shows data security fragility through the alleged attack on the base of the Ministry of Health, or when the president of the STF accuses the President of the Republic of leaking passwords from TSE servers. In addition to this, the very serious institutionalized violence against journalists and communicators through threats, censorship, illegal seizure of equipment, surveillance, defamation and even physical violence. The issue has been a matter of concern of international entities, since the Federal Government itself is actively responsible for promoting and legitimizing disrespect concerning freedom of the press.

Not even children escape the national indifference, as indicated by the increase in infant mortality in the country, and the obstacles resulting from the Covid-19 pandemic, which forced millions of children missed classes because of the difficulty of accessing them remotely. The reduction in investments in the fields of education, science and technology, contribute towards setbacks in these sectors and anticipate a medium and long-term impact on the sustainable development process itself. The country is plunged into numerous crises, with politics being the most acute of them all, by preventing the adoption of solutions to the economic stagnation and to two other ongoing cognitive epidemics, which are that of scientific

denialism and disinformation, where hard-won programs and services are questioned by government occupants with theses anchored on fake news and misrepresentation of History.

In addition to this situation, the increased vocalization of the sexist and LGBTQI+phobic groups, fed by a reactionary ideology, under the direction of a government-run somber theocratic military-matrix that deprives rights through the destructuring of public policies aimed at eliminating poverty and reducing inequalities. We have seen, for example, 54% growth in the number of femicides [\(which continue to be in most cases practiced by partners and former partners<sup>5</sup>\)](#), but instead of protection, the government stimulates the culture of violence, promoting the individual possession of weapons and the liberalization of possession.

The context is of a political culture that fuels economic inequalities and institutionally stigmatizing and violent prejudice, including more xenophobic attitudes toward immigrants from South America and Africa.

<sup>5</sup>FBSP Yearbook, 2021: <https://forumseguranca.org.br/anuario-brasileiro-seguranca-publica/>



It is this set of administrative ignominies that undermines the country from the institutions to the mental health of its people, resulting in more children on the streets with the growth of the housing deficit, slave and child labor, of extreme poverty, of hunger and food insecurity, of environmental degradation, of the precariousness of public health services, of education and social assistance, of setbacks in health and reproductive rights, of continuing degradation of the prison system and the injustices committed by a judicial system structurally committed with preserving inequalities and privileges.

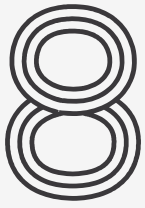
To reverse this scenario, it is necessary that the Brazilian State should indeed once again defend democratic principles, acting in accordance with the Federal Constitution. To this end, it is worth considering the opportunities that 2022, the year of elections for the Presidency of the Republic and for the National Congress, offers us. Although the data have already shown that we have lost decades of investment in several sectors analyzed here, the organizations of the UPR Coalition are committed to human rights and are acting for Brazil to be back on track of the sustainable, inclusive and fair development of all people.

***UPR Brazil Coalition, March 2022***

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# *Assessments*

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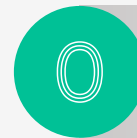
# Criminal Justice: Prison System, Public Security, Prevention and Fight Against Torture



Art: Série Diário de Releituras, Alex Frechette.

Total of  
evaluated  
recommendations

43



Implemented



Partially  
implemented









Not  
implemented



Not implemented  
and in setback



With regard to **recommendations 32, 33, 34**, which deal with **human rights education for police officers** can be considered partially implemented.

RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
<b>32.</b> Introduce mandatory human rights training for police agencies, and implement an evidence-based policing programme, to reduce deaths from police action by 10 per cent over the universal periodic review cycle	United Kingdom of Great Britain and Northern Ireland		
<b>33.</b> Implement human rights training programmes for the security forces, emphasizing the use of force according to the criteria of necessity and proportionality	Italy		
<b>34.</b> Continue improving human rights education and training for enforcement agencies, public officials, and prison guards	Malaysia		

In Brazil, the ideology of policing is based on the suspicion of people whose characteristics are regarded as "suspicious elements" attributed to young blacks and residents of poor neighborhoods, such as slums and peripheries. In these places, the practice of "shoot first and question later" is the rule. Illegal prisons, torture, physical and verbal abuse are standard. In this sense, superficial changes in police training are ineffective to interrupt the policy of death by the police forces of the Brazilian State.

In 2020, the consideration of Bill<sup>1</sup> no. 5245/2020 was initiated<sup>2</sup>, which determines the introduction of content related to Human Rights, the fight against racism, to gender violence and other forms of discrimination in training courses for public and private security agents, for police, fire fighters, municipal guards and watchmen. However, these training programs have not undergone significant changes.




<sup>1</sup>Bill initiated by Senator Fabiano Contarato of the State of Espírito Santo







<sup>2</sup>Available on: <<https://www25.senado.leg.br/web/atividade/materias/-/materia/145561>>. Accessed on: September 23, 2021



















The closure of the National Committee for Education in Human Rights, responsible for the implementation of the National Program of Human Rights Education, with a specific area dedicated to the theme of education in human rights of public security agents, since 2019, it has not progressed, without any systematic action organized by the central authorities in the field of police training. It is noted that, even if the human rights issue is included, this is not done independently and with a critical approach. Finally, there are no studies on the impact and effectiveness of this training on the change in the actions of police officers.




**Recommendations 61, 62, 63, 64, 70, 71 and 98**, which deal with **police investigations and violence**, are not being implemented and are considered a setback. 

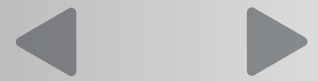
RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>61.</b> Conduct thorough, impartial, and timely investigations into all allegations of unlawful killings, abuse, torture, and corruption involving security forces and prison personnel	United States of America		
 <b>62.</b> Ensure investigations and recommend action against abuses by law enforcers, as a way of curbing violations	Botswana		



RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>63.</b> Strengthen prevention and effectiveness of investigation of cases of police violence thorough improved supervision and human rights training of law enforcement personnel, namely the military police, and ensure accountability for any acts of police violence	Czechia		
 <b>64.</b> Ensure that acts of violence committed by members of security forces are prosecuted in order to combat impunity	France	 	
 <b>70.</b> Refrain from resorting to violence and extrajudicial executions by the security forces, in particular the so-called "war on drugs"	Bolivarian Republic of Venezuela		
 <b>71.</b> End extrajudicial killings and associated impunity, including by passing draft bill No. 4471/2012, by abolishing the classification "resistance to arrest followed by death" and by ensuring that all deaths following police interventions are impartially investigated	Germany		
 <b>98.</b> Step up efforts to abolish the practice of racial profiling and arbitrary arrest by the police and security forces	Indonesia		

Brazil continues with alarming rates of police lethality and institutional violence, with young blacks being the main victims. During the pandemic, the death rate due to police action continued to grow. According to the Brazilian Public Security Yearbook, in 2020, the country has reached the highest number of deaths<sup>3</sup> due to police interventions since 2013, the first year of the series monitored by the Brazilian Public Security Forum (FBSP) and since then the growth is in the order of 190%. 

<sup>3</sup>With 6,416 fatal victims of the operations of civilian and military police officers in or off duty, state police officers produced an average of 17.6 deaths per day



The number of deaths by security officers increased in 18 of the 27 units in the federation, revealing a spread of police violence in all regions of the country. Despite being 56.3% of the Brazilian population, black people are victims of 78.9% of the deaths committed by police officers in the country. In the opposite direction, white people were victims of 20.9% of the deaths, [even totaling 42.7% of the population<sup>4</sup>](#).

The lack of independent resolution and investigation into such crimes contributes to accentuating the systematic impunity of state agents. Cases duly investigated and with some kind of accountability are rare..

Police violence also systematically affects children and adolescents. [According to a survey<sup>5</sup> by the United Nations Children's Fund \(UNICEF\) and the Brazilian Public Security Forum \(FBSP\)](#) in 2020, a total of at least 787 children and adolescents, aged 10 to 19 years, were killed by the police. This figure represents 15% of all intentional violent deaths in this age group and indicates that the police were responsible for the death of at least two children a day in the country, in 2020.

Violent daily operations in areas of predominance of the black population and approaches aimed at the "standard suspect color element" legitimize interventions, such as the one that murdered young João Pedro Mattos Pinto, 14, in São Gonçalo (RJ) in May 2020, the girl, Agatha Félix, 8, in the Complexo do Alemão (RJ) in September 2020, and Kauan Alves, 16, on the morning of Christmas in 2019, during the action of the Military Police of São Paulo to suppress a funk party in the southern part of the capital.

The Network of Public Security Observatories has shown in the report ["The Color of Police Violence: The Bullet Does Not Hit The Target"](#)<sup>6</sup> that racism structures public security policies and permeates a scenario of violent deaths involving black people<sup>7</sup>. According to the document, the state of Bahia has the highest percentage of black people killed by the police: 97% of the deaths in police actions are black. In Rio de Janeiro, the military police killed 1,814 people last year (the highest number in 30 years), 86% of which were black. In Pernambuco, the proportion of blacks among the victims is 93%. 

<sup>4</sup>Available on: <<https://noticias.uol.com.br/cotidiano/ultimas-noticias/2021/07/15/letalidade-policial-e-a-mais-alta-da-historia-negros-sao-78-dos-mortos.htm>>. Accessed on: September 24, 2021

<sup>5</sup>Available on: <https://www.unicef.org/brazil/media/16421/file/panorama-violencia-letal-sexual-contra-criancas-adolescentes-no-brasil.pdf>

<sup>6</sup>Available on: <http://observatorioseguranca.com.br/wordpress/wp-content/uploads/2021/09/A-Cor-da-Viole%C3%A7a-Policial-A-Ba-Na%C3%A7%C3%A3o-Erra-o-Alvo.pdf>

<sup>7</sup>Official data of the Secretariats of Public Security of the states of Bahia, Ceará, Pernambuco, Rio de Janeiro and São Paulo on the color / race of people killed by police officers in 2019 were analyzed



In Ceará, although most cases do not have a color record, of those who have a police record, the percentage of blacks is 87%. In São Paulo, where the black population represents 34% of the total population of the state, 63% of the deaths by the police are black. The figures show that police violence is racialized in Brazil and point to a necessary reorientation of protocols in police actions and operations.

Regions in which the population is mostly black receive a very high investment from the point of view of militarized public security, with the availability of weapons, police and vehicles, to the detriment of the presence of public equipment to promote social policies. The country's public security policies are oriented toward criminalization, social control, surveillance and punishment of the black population in Brazil.


The Brazilian Executive and Judicial powers share the responsibility of granting institutional authorization and approving bills that extend the legal authorization for the police to kill in service. In October 2017, the sanction of law 13.491 changed the way in which cases of police violence are to be tried, allowing the investigation of torture and ill-treatment by military police officers to be carried out by their police colleagues and commanders. In practice, the legislative amendment expanded mechanisms to shield the structural violence of the State. Before the change in law, 52% of the reports were filed. After the change, the number of closed cases, made in custody hearings, rose to 86%. Attempts by the Brazilian state to extend institutional legitimacy to deaths committed by State agents do not stop there. Currently, at least four bills are being considered in the Congress that deal with the non-initiation of proceedings to investigate security agents or military officers who commit wrongful crimes against life: PL 6125/2019, PL 9432/2017, PL 7883/2017 and PL 1595/2019<sup>8</sup>. The approval of these projects would inevitably increase the already scandalous rate of police lethality, one of the highest in the world.

In this sense, the responsibility of the State for the deaths caused by it lies not only in the individual accountability of the security agents, but also in the rulers themselves who establish the genocide of black youth as a State policy through joint and systematic action between the executive, legislative and judicial powers.



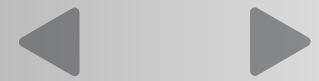
<sup>8</sup>It should be remembered that similar proposals for extending the Exclusion of lawfulness have already been discussed and that parliamentarians, after listening to experts, social movements, families and victims of state violence, civil society organizations, and even movements and associations of the security forces category, decided to withdraw them from the so-called "Anti-crime Package" approved in 2019. Also, the theme continues repeatedly returning to the agenda in the form of new bills



**Recommendations 72, 73, 74, 85, 86, 87 and 88**, which deal with the **institutional conditions for the prevention and combat to torture**, are not being implemented and today can be considered as a setback. 

RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>72.</b> Continue its efforts to combat torture and ill-treatment	Algeria		
 <b>73.</b> Intensify efforts aimed at combating and preventing torture and other forms of ill-treatment	Georgia		
 <b>74.</b> Establish a formaladhesion programme which includes the allocation of funds by the federal government to support the national policy on torture prevention	Ghana		
 <b>85.</b> Proceed with the enactment of legislation effectively implementing the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at both state and federal level and adopt measures to adhere to the UN Nelson Mandela Rules	Czechia		
 <b>86.</b> Consolidate the Federal National System, including by supporting States to set up Local Preventive Mechanisms	Ghana		
 <b>87.</b> Create local preventive mechanisms at each state level for effective implementation of the National Mechanism for the Prevention and Combat of Torture	Turkey		
 <b>88.</b> Ensure that Local Preventive Mechanisms are created by encouraging states to do so as envisaged by the national law on torture and expand the application of custody hearings to the entire country as set by Resolution 213 of the National Council of Justice	Denmark		





Brazil created and installed the National System for Prevention and Fight against Torture by [Federal Law no. 12.847/2013](#) (regulated by [Federal Decree no. 8.154/2013](#)). It includes the National Mechanism for Prevention and Fight against Torture (MNPCT) and the National Committee for Prevention and Fight Against Torture (CNPCT), structures that represent a significant step toward fulfilling constitutional responsibilities and international commitments, such as the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by [Federal Decree no 6.085/2007](#).

Such a structure should also be created in the state spheres, but it was implemented only in Rio de Janeiro (State Law no. 5.778/2010), in Pernambuco (State Law no. 14.683/2012), in Rondônia (State Law no 3.262/2013) and in Paraíba (State Law no 7.413/2011). The structure is being instituted in the states of Alagoas (State Law no. 7.141/2009), Espírito Santo (State Law No. 10.006/2013), Maranhão (State Law no. 10.334/2015), and Goiás (State Law no. 19.684/2017), [according to the 2018 Report of MNPCT<sup>9</sup>](#). More recently, the State Committee for Prevention and Fight against Torture (CEPCT) was created in the State of Sergipe, through Law no. 8.135 of July 13, 2019.


Calls for the composition of this in 2021 were made as a result of the incidence of local social movements and of the National Agenda for Extrication.

With regards to the continuance of the national structure of the CNPCT, its operation, including the election for composition by members of civil society, it is only possible from the active participation of civil society for its maintenance. Even if this structure is legally guaranteed, the current government has been implementing deep setbacks in its operation. A strong example of this is [Federal Decree no. 9.831/2019](#), which affects the MNPCT's autonomy and brings more difficulties to its implementation, since it cuts the payments of its experts, transforming its job positions into volunteers.

Civil society, using the opinion of the UN Subcommittee on Prevention of Torture - in favor of the repeal of the Decree for the better guarantee of autonomy and independence of the MNPCT -, has organized itself and obtained a judicial decision that obliges the Federal Government to pay the experts. However, on May 13, 2020, the Government published a notice for the selection of new experts without providing for their payment.
















<sup>9</sup>Available on: <https://mnpctbrasil.files.wordpress.com/2021/02/relatorio-bianual-2018-2019-mnpct.pdf>



**Recommendations 75, 76, 77, 79, 80, 81, 82, 83, 84, 89, 90, 91 and 92**, which deal with **conditions in the prisons** are not being implemented and are considered a setback. 

RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>75.</b> Continue taking measures aimed at improving the conditions in prisons and other detention facilities	Namibia		
 <b>76.</b> Improve detention conditions, including basic sanitation and access to water, food and medical care	Republic of Korea		
 <b>77.</b> Address overcrowding, sanitation, violence, and medical and psychological care in prisons	South Africa		
 <b>79.</b> Address the problem of severely overcrowded prisons to eliminate inhumane conditions and take all measures to prevent torture	Turquia		
 <b>80.</b> Adopt without delay urgent measures to stop torture, violence, killings and serious overcrowding and degrading conditions in the prisons in Brazil	Bolivarian Republic of Venezuela		
 <b>81.</b> Working jointly with the Federal States to improve detention conditions in Brazilian prisons	Algeria		
 <b>82.</b> Continue improving prison conditions and reducing overcrowding	Angola		
 <b>83.</b> Ensure respect for and protection of human rights for all detainees including by guaranteeing detention conditions in compliance with domestic as well as international law and standards and by protecting against cruel and inhuman treatment	Austria		



RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>84.</b> Improve as quickly as possible the different aspects of prisoners' conditions	Cabo Verde		
 <b>89.</b> Continue to make efforts to protect human rights of persons in detention facilities	Holy See		
 <b>90.</b> Ensure conditions at detention centres comply with international and Brazilian law and that particular attention is given to conditions faced by vulnerable prisoners including pregnant women, children, and lesbian, gay, bisexual, transgender and intersex persons; and provide human rights training to officials in the legal and judicial system	Ireland		
 <b>91.</b> Enhance efforts to reform the prison system and to ensure the protection of the human rights of all detainees	Italy		
 <b>92.</b> Take measures to improve conditions related to treatment of inmates within prisons, through increasing the capacity as already initiated by the Government and through measures for maintaining order within prisons	Japan		

Brazil continues to be the third country in the world with the highest rate of imprisonment and the racial selectivity of the system remains a reality. [According to the National Penitentiary Department<sup>10</sup> \(DEPEN\), 80% of the prison units that informed the race/color of their detainees indicate that approximately 52% of the imprisoned people are black.](#)

The Brazilian prison perpetuates scandalous violations of rights that have intensified in a pandemic context. The absence of effective measures to prevent the uncontrolled spread of Covid-19 inside prisons is progressively culminating in the death of people deprived of freedom.



<sup>10</sup>DEPEN. Imprisoned People in Brazilian Prisons. 2020. Available on: <https://www.gov.br/depen/pt-br/servicos/sisdepen/mais-informacoes/relatorios-infopen/relatorios-analiticos/br/brasil-dez-2020.pdf>

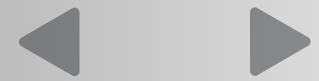


The existing conditions in Brazilian prisons make it impossible to guarantee basic sanitary conditions to prevent contamination by the new coronavirus, such as the supply of drinking water, basic sanitation, the supply of hygiene materials or physical distancing. In addition, we can see the lack of sun bathing, space and time available for physical exercise or even the structure for safety, considering the low effective personnel in relation to the number of people deprived of their freedom. The considerable deficit of professionals from the technical health and psychosocial teams in prisons throughout the national territory is also a reality. These professionals have fundamental importance for guaranteeing access to health services, progression of the regime and other rights provided for in the Criminal Executions Act (Law no. 7210/1984).

Overcrowding is a risk factor to health - both in terms of Covid-19 and other respiratory diseases, such as tuberculosis, infectious and dermatological diseases - and the worsening of preexisting diseases. This is all in a scenario in which, [according to the Ministry of Health and the Oswaldo Cruz Foundation<sup>11</sup> \(Fiocruz\)](#), the incidence of tuberculosis is 30 times higher in prisons than in society as a whole. Thus, among the main comorbidities in the prison system, respiratory, cardiologic and diabetes problems are highlighted. A deficiency in ensuring access to health makes particularly complex the diagnosis and treatment of diseases in the prison environment.



<sup>11</sup>The data can be found in the "Requests for Access to Information" report: **Data on COVID-19 in the Prison System in the 1st and 2nd quarters of 2020 – Key Results**, available on: <<http://www.iddd.org.br/wp-content/uploads/2021/04/idd-dados-sobre-a-covid-19-no-sistema-prisional-no-1o-e-2o-quadrimestres-2.pdf>> . Accessed on: September 09, 2021



Finally, almost half of the Brazilian prison population that is deprived of liberty provisionally awaits the right to be tried. The majority of the prison population, both male and female, is imprisoned for crimes without serious threat. [In the case of the female prison population<sup>12</sup>](#), almost 70% are deprived of freedom for crimes related to the Drug Law (Law no.11.343/2006), with more than 75% of them mothers. While there is legislation that guarantees those responsible for children up to 12 years of age to answer before justice in freedom or home detention, few women have access to those rights, especially those accused of committing crimes related to the retail trade in drugs.

For the possibility of protecting and guaranteeing the human rights of people deprived of their freedom, steps to free them from prison are urgently needed.

Deprivation of freedom as a first choice for the courts maintains about 40% of people temporarily imprisoned. Every day, torture practices are denounced by family members of people deprived of freedom across the national territory, in addition to those carried out by civil society organizations and social movements, such as the National Agenda for Extrication.

[In 2020, people arrested in Piauí died due to beriberi, a disease characterized by malnutrition<sup>13</sup>](#). The Ministry of Health's Report informs that the condition may have been aggravated by the very low quality of food provided by the criminal establishment and the absence of visitation, since family members are the main guarantors of basic food and hygiene items.

In the same year, [more than 200 civil society organizations and prison system supervision entities from across the country made an urgent appeal<sup>14</sup>](#) to international human rights organizations, denouncing the grave situation of isolation, non-communicability, lack of transparency on information regarding the COVID-19 pandemic, as well as the increase in [reports of torture by family members and former prisoners<sup>15</sup>](#).


<sup>12</sup>See: **Women deprived of freedom**. Available on: <<http://mulheresemprisao.org.br/>>
















<sup>13</sup>Available on: <https://brasil.elpais.com/brasil/2021-04-02/presos-morreram-por-falta-de-comida-adequada-em-cadeia-do-piaui-aponta-relatorio-do-ministerio-da-saude.html>

<sup>14</sup><http://www.global.org.br/wp-content/uploads/2020/07/Apelo-ONU-Final-1.pdf> Non-communicability in prisons was the main policy of coping with COVID-19 and was denounced in June 2020 to international organizations


<sup>15</sup>Source: Pastoral Carcerária Nacional. Available on: <<https://carceraria.org.br/combate-e-prevencao-a-tortura/pastoral-carceraria-divulga-relatos-e-denuncias-sobre-o-sistema-carcerario-em-tempos-de-pandemia>>



As regards **recommendations 93, 94, 95, 96 and 97** on **the conditions of imprisonment of pregnant women, the women breast-feeding infants or mothers with children up to 12 years of age**, they are not being implemented and are considered a setback. 

RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>93.</b> Take necessary measures to increase the number of gynaecologists in the Brazilian prison system	Sweden		
 <b>94.</b> Incorporate the Bangkok Rules into public policies to protect female inmates and adopt bill 5654/2016 that prohibits the use of handcuffs before, during and after childbirth on women deprived of liberty	Denmark		
 <b>95.</b> Improve prison conditions, particularly addressing overcrowding and violence, including in prisons for women	Australia		
 <b>96.</b> Improve facilities dedicated to pregnancy and maternity in prisons, in line with the Bangkok Rules	Thailand		
 <b>97.</b> Strengthen prison reform efforts to protect female prisoners from sexual abuse and violence	Bahamas		

Freedom or house arrest should be the rule for pregnant women, the women breast-feeding infants or mothers or those responsible for children up to 12 years of age, as provided for in Articles 318 and 318-A of the Code of Criminal Procedure. Article 318 of the law, included by the Legal Framework of the First Childhood (Law no. 13.257/2016), has as its objective to protect the right of the unborn child to a pregnancy away from the prison environment and of the child to proximity with the mother in such a critical stage of their development.

However, despite the express legal forecasts, the STJ continues to maintain pregnant women, women in the postpartum period, lactating mothers and/or those responsible for children up to 12 years old who were imprisoned during the pandemic<sup>16</sup>. 


<sup>16</sup>For example, we have the following cases that have been tried before the Superior Court of Justice: HC no. 509.702, HC no. 532.585, HC no. 552.808, HC no. 560.791, HC no. 558.151, HC no. 561.422, HC no. 460.953 and HC no. 522.720









After the filing of the Collective Habeas Corpus no. 143.641/SP by the Federal Supreme Court, Public Defenders from all over Brazil filed a new injunction for a Collective HC with the STF, in favor of imprisoned pregnant women, postpartum and lactating mothers, with a focus on freeing measures necessary during the period of the pandemic. However, in spite of the undeniable urgency of the situation, HC no.186,185/DF, distributed to Minister Luiz Fux on May 27, 2020, since then is without any decision, even with regard to requests for injunctions.

In the State of São Paulo, where more than 30% of the Brazilian female prison population is found, only three prison units have the presence of gynecologists. There is practically a gynecologist for every 2,000 women imprisoned. Of the 17 state units, only 5 have physicians, and in two of them there is only a general practitioner or psychiatrist. The data are from the Secretary of Penitentiary Administration of the State of São Paulo and have been provided to the Public Defender.









**Recommendations 78, 100, 101, 103, 104, 105, 106, 107 and 108**, which deal with **the reduction of provisional prisons, improvement of the justice system and pre-trial hearings**, are not being implemented and are currently considered as a setback. 

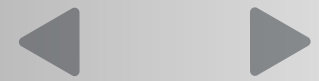
RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>78.</b> Take measures to reduce over incarceration, notably by encouraging the use of alternative sentencing and by making sure that pre-trial hearings are widely used	Spain		
 <b>100.</b> Carry out efforts for the implementation of recommendations on the improvement of the judiciary and the judicial system that the Russian Federation made at the last universal periodic review	Russian Federation		





RECOMMENDATION (UPR)	NATION	SDG RELATED	ASSESSMENT
 <b>101.</b> Consider expanding application of the Custody Hearings Programme and make it feasible before all State Courts	Serbia		
 <b>103.</b> Continue its efforts on further improving the judicial system with practical measures	Azerbaijan		
 <b>104.</b> Accelerate the establishment and the effective implementation of a solid public defence system in all states, in agreement with recommendations 119.31, 119.10, 119.12 and 119.14 from the second cycle	Haiti		
 <b>105.</b> Expand custody hearing programmes to cover all pre-trial detainees by passing draft bill 554/2011. Provide specific training according to the Istanbul Protocol to judges and public prosecutors working in custody hearings	Germany		
 <b>106.</b> Ensure that legislation relating to the prison situation and criminal justice is in accordance with international human rights standards	Mexico		
 <b>107.</b> Improve judicial processes to minimize the length of pre-trial detention and speed up trials, and consider alternatives to detention to address prison overcrowding	United States of America		
 <b>108.</b> Plan and take concrete measures in the mid-term period with the objective of reducing pre-trial time for remand prisoners and reduce the overall number of prisoners awaiting trial rather than serving sentences	Slovenia		





The custody hearings make it compulsory to present the person arrested to a judge, up to 24 hours, allowing a more effective control of the legality and necessity of the provisional arrest, besides being an essential instrument for preventing and combating torture and other forms of abuse by state authorities and security agents. In Brazil, the custody hearings were implemented only in 2015, after much pressure from civil society for the Brazilian government to adapt to its commitments made internationally.

However, with the start of the pandemic, the custody hearings were suspended in the country and resumed months later virtually. In October 2020, the CNJ issued [Resolution no. 357/2020](#) to admit the virtual realization of the custodian hearings in cases where it is not possible to perform in-person attendance within 24 hours.

With this kick start, the Courts of Justice of several states have made video conferencing the rule for hearings, despite the prediction of their exceptionality, abandoning the essence of the custody hearing, independently of the presentation of the custodian **before** the judicial authority.

The STF also suspended for an indefinite period the effectiveness of the provisions of Law no. 13.964/2019 which established the guarantees judge, responsible for holding custody hearings in the procedure established by the new regulations. The decision was given by Minister Luiz Fux of the STF in the Direct Lawsuits on Unconstitutionality (ADI) [6298](#), 6299, 6300 and [6305](#) and, since January 2020, when the effectiveness of the aforementioned rules by precautionary decisions was suspended, the subject is expected to be considered by the Court Plenary.

In June 2021, Minister Nunes Marques partially granted an injunction to authorize video conferences, prohibited by Law no. 13.964/2019. The trial has been interrupted and has no date yet to be resumed.

There are bills to be considered by the National Congress to extend the possibility of videoconferencing at the custody hearing, such as PL 1473/2021 and PL 8045/10, which deal with the reform of the Code of Criminal Procedure.





The political-legal movement for the remote format to extend beyond the pandemic period represents a step backwards from custody hearings and the role of the Judiciary in preventing and investigating abuses, ill-treatment and torture by security officers in police operations. The COVID-19 pandemic became an argument for weakening the institute and evidenced the intention of sectors of the Judiciary, Executive and Legislative powers to make video conferencing permanent after the coronavirus pandemic.

As a mechanism for preventing and combating torture, the custody hearing does not fulfill its function when carried out by virtual means – because it is not possible for the magistrate to properly identify indications of the practice of torture, as well as not ensuring that the environment in which the arrested person will be heard is free from external interference, guaranteeing them minimum safety to give a free and true account.

In contrast to what is needed to advance the eradication of torture, videoconferencing opens up the possibility for the person in custody to give their report in a hostile environment, in the presence of state security officers, police stations or prison units, and may even give testimony surrounded by the torturers themselves, as by agents who made the arrest, as is already happening in states, such as Pernambuco and São Paulo. This makes it unfeasible to monitor any intimidation or coercion that the person may be suffering in order not to report any abuse or violence suffered.

The weakening of constitutional guarantees deepens the selectivity and institutional racism of the Brazilian criminal justice system. When they are held by video conferencing, custody hearings lose their primary purpose of serving to guarantee rights, to qualify the decision-making process, and to prevent ill-treatment and torture. On the contrary, they end up making people already victimized by institutional violence in all its facets even more vulnerable. The admission of their execution by video conference would then refute the institute, and would greatly weaken the prevention and fight against torture suffered mainly by black people.



# *Recommendations*



## *Criminal Justice: Prison System, Public Security, Prevention and Fight against Torture*

### **Recommendations**

- 1** Promote actions of imprisonment by means of the release of people accused or convicted of crimes committed without violence or serious threat, of the decriminalization of stealing to survive, of the prioritization of protective measures to the detriment of provisional prisons and compliance with the Legal Framework of the first Childhood, in order to promote the release from prison of pregnant women, women who have recently given birth, mothers or those responsible for children up to 12 years old and people with disabilities;
- 2** Carry out measures to combat and prevent institutional torture by means of the mandatory face-to-face holding of custody hearings in less than 24 hours of imprisonment, strengthening of the institutions fighting against and preventing torture in institutions of deprivation of liberty, implementation, in all federal units, committees and mechanisms for preventing and combating torture and the formal commitment of the Brazilian State to the guidelines established by the Istanbul Protocol in the investigation of cases of torture and ill-treatment;
- 3** Provide reparation for victims, families of victims and communities affected by the violent action of public security forces;
- 4** Produce and publicize disaggregated data on police activity, including arrests, use of legal and non-lethal force in investigations, operations, and other repression actions, including geo-referenced information and color/race, gender and sexual orientation of those involved;
- 5** Reduce the use of lethal and less lethal weaponry in the spaces of deprivation of liberty and implement a transparent flow of control for the remaining equipment.



# About the art



**Art:** Série Diário de Releituras

**Artist:** Alex Frechette

**Techniques:** Colored pencils on paper

**About the art:** Part of a series of re-readings, this one is from Francisco Goya's "May 3, 1888", and illustrates the harsh combats and slaughters of the civilians of the periphery, accompanied by elements that characterize soccer and the World Cup in a critical and reflective way

**History with art:** Her interest in art was awakened during her childhood, and during her adolescence she refined her skills. She is currently working on her PhD in Arts at the Rio de Janeiro State University

**Learn more:** <https://www.facebook.com/mimaravi>



## Olhares do Brasil (Brazilian sights)

Promoted by the Instituto de Desenvolvimento e Direitos Humanos (IDDH), the first edition of the call for proposals "Olhares do Brasil" selected 10 artworks by Brazilian artists to illustrate the covers of reports on human rights in the country, which will be presented at a session of the UN Human Rights Council in 2022.

See more about the artworks and the call for proposals Olhares do Brasil [here](#).





Access RPU platform [here](#)