

## Preliminary Observations of IACHR's *In Loco* Visit to Brazil

Rio de Janeiro – The Inter-American Commission on Human Rights (IACHR) carried out an *in loco* visit to Brazil November 5-12, 2018, following an invitation from the Brazilian State on November 29, 2017.

The aim of the visit was to observe first-hand the human rights situation in the country. The delegation for this *in loco* visit was led by IACHR President Margarette May Macaulay, and also included the organization's First Vice President, Commissioner Esmeralda Arosemena de Troitiño; Commissioner Francisco Eguiguren Praeli; Commissioner Joel Hernández García; and Commissioner Antonia Urrejola Noguera, the IACHR's Rapporteur for Brazil. Further, the delegation included Assistant Executive Secretary María Claudia Pulido; the Executive Secretary's Chief of Staff Marisol Blanchard Vera; Special Rapporteur for Freedom of Expression Edison Lanza; Special Rapporteur for Economic, Social, Cultural and Environmental Rights (ESCER) Soledad García Muñoz; and experts from the Commission's Executive Secretariat.

The Inter-American Commission met with federal authorities like the Brazilian ministries for Human Rights and Foreign Affairs, the National Human Rights Council, the Brazilian Attorney General's Office, the Federal Office for Citizens' Rights, the Union's Public Defender's Office, the Federal Public Prosecutor's Office and the Federal Supreme Court. The Commission also met with various state authorities, with representatives of civil society, social movements, *favela* residents, human rights defenders, indigenous authorities and leaders of traditional Afro-descendant communities (*quilombos*), and with representatives of the diplomatic community and of international organizations that belong to the United Nations System. The Commission further gathered statements from victims of human rights violations and their families.

The IACHR visited various Brazilian cities and states—including Brasilia, Minas Gerais, Pará, São Paulo, Maranhão, Roraima, Bahia, Mato Grosso do Sul and Rio de Janeiro—and many state institutions—including incarceration facilities, facilities to assist homeless persons, facilities to welcome and assist migrants and refugees, and the migrant shelter in Pacaraima, Roraima. The Commission also visited *quilombos*, land belonging to indigenous communities and disadvantaged suburbs. The delegation was able to sign cooperation agreements both with the Federal Public Prosecutor's Office and with the National Public Prosecutors' Council.

The Commission thanks the Brazilian government and the country's federal and state authorities, as well as the Brazilian people, for all the support and assistance they provided during the visit, which led to a constructive and honest dialogue. The IACHR is also grateful for the information it obtained from the State, from civil society organizations, from human rights defenders and from international organizations. The Commission appreciates the efforts made by victims of human rights violations and their families to present their testimony, complaints and communications.

The Commission will now put forward its Preliminary Observations in light of this *in loco* visit to Brazil. It is important to note that, given the country's size and complexity in terms of human rights, these observations are preliminary and not comprehensive. They will therefore be supplemented with an in-depth analysis of the information collected during and after the visit, which will be presented when the final country report is published in the coming months.

This *in loco* visit is the IACHR's second such visit to Brazil. The first one took place November 27-December 9, 1995 and found that Brazil's main human rights challenges were linked to urban and rural violence and to lack of law and order; violence against the holders of unexploited rural land; forced labor among rural laborers; the existence of death squads; police violence and impunity, and the use of torture as an investigation method; military court jurisdiction to try common crimes committed by state police organs (the "military police"); violence against women, adolescents and girls; racial discrimination; the situation of indigenous peoples; the problems of homeless children; the situation in the prison system; and the administration of justice, including the situation of public prosecutors.

Twenty-three years have passed since the IACHR's first *in loco* visit to Brazil. The IACHR observes that, in the years that followed that first visit, in 1995, significant progress was made in terms of strengthening democratic institutions and human rights in the country, which helped to address some of the challenges the IACHR had identified through monitoring ahead of the visit and found evidence of during the visit. However, through permanent monitoring after the 1995 visit and during the recent visit, the IACHR has been able to observe with extreme concern the adoption of a series of measures conducive to reducing the impact of policies, legislation and institutions charged with protecting human rights in the country. Those measures are joined by a series of announcements linked to bills and other public initiatives that could weaken past achievements and institutions that are essential to protect human rights.

Historical discrimination and the concentration of wealth have led to the historical exclusion of certain population groups, including Afro-descendant and indigenous peoples and peasants, who have

remained extremely vulnerable over the years. Such vulnerability is based on the ethnic-racial background of the affected groups and is exacerbated when it goes hand in hand with poverty and homelessness.

Brazilian society has shown a normalization of the huge wage gaps and the massive concentration of the means of production that have marked its production model since it first emerged, based on farming and especially on monocultures on very large landholdings and which has also been marked by slave labor, exploitation and a low-cost workforce of African descent. Linked to that, there is also evidence of insufficient budget allocations to promote agrarian reform policies that might grant the rural population access to productive land.

In this context, the IACHR observes that the extremely unequal distribution of land has led to conflict over land and to human rights violations against Afro-descendants, Quilombolas, indigenous peoples, peasants and rural laborers, as well as defenders of human and environmental rights. Such groups are often violently evicted and displaced from their land. One of the main problems associated with land disputes and forced displacement involves harassment, threats and murders committed against members of those communities. The IACHR observes with concern that impunity in connection with rural violence contributes to a perpetuation and an increase in such violence.

Further, the IACHR was able to observe the persistence in cities and other urban settings of hurdles that prevent the poor from accessing city centers and marginalize them in the suburbs. In many cases, both in the countryside and in cities, state security forces are used to step up the repression and criminalization of historically vulnerable groups and fail to protect and ensure the rights of those people.

The IACHR notes that poverty and inequality in Brazil have historical roots and are exacerbated by varied discrimination against persons based on their income, race, ethnic background, age, gender and sexual orientation. Poverty impacts the daily lives of Brazilians in many ways and is particularly apparent in housing conditions and in access to basic public services, as well as in the effective enjoyment of civil, political, economic, social, cultural and environmental rights.

The multidimensional nature of poverty and its particular effect on groups that are vulnerable or have suffered historical discrimination have been sufficiently proved using statistical data and are especially evident among Afro-descendant and indigenous persons. Brazil's poverty and inequality are endemic, and that requires a profound transformation through public policies with a human rights focus. In this context, the IACHR observes with concern that current fiscal policy measures do not seem to be aimed

at changing such conditions. On December 15, 2016, a new fiscal scenario was implemented through the adoption of constitutional amendment 95—known as the “ceiling” amendment—which capped social spending in public budgets over the following 20 years.

Considering that the eradication of poverty and marginalization and the reduction of social and regional inequalities are among the goals of the Constitution of the Federative Republic of Brazil, the IACHR observes a risk in the gradual reduction of resources that are proportionately necessary to protect social rights in the country. In particular, the IACHR observes that such measures may have a negative impact on the effective enjoyment of the rights to housing, healthcare and education. Violations of those rights are linked to the historically unequal distribution of income and wealth, which produces a setting that does not seek to reduce social inequalities but rather to deepen and perpetuate them.

The IACHR further observes that Brazil’s legal and criminal-justice system shows a dual problem: on the one hand, there is chronic impunity in crimes committed against the most vulnerable communities; on the other hand, there is a disproportionate impact of the State’s repressive apparatus on those same communities. By going unpunished, rights violations committed by law enforcement officers become systematic across the country, while the mass incarceration of poor people leads to overcrowded prisons. In this context, the policy known as the “war on drugs” amounts in practice to a criminalization of a major portion of poor, black Brazilians and of residents of the country’s disadvantaged suburbs.

The IACHR has monitored the human rights situation in Brazil with particular care, and it has been able to note that structural discrimination and severe social inequality persist against groups such as Afro-descendant and indigenous peoples, peasants, the poor and the homeless. According to the IACHR, structural or systemic discrimination manifests itself in discriminatory behavior against individuals because they belong to groups that have been historically and systematically discriminated against both by institutions and by society. That is apparent in the standards, rules, routines, patterns, attitudes and behavior guidelines, both *de jure* and *de facto*, which broadly treat a group of people as inferior and exclude them. This persists over time, even for generations, so such cases are neither isolated nor sporadic. That discrimination emerges as a consequence of a historical, socioeconomic and cultural context.

Through monitoring over the years, and based on the information it obtained during the visit, the IACHR observes with major concern that such groups have been subjected to multiple permanent violations of their human rights both under the dictatorship and under democratic governments. A major portion of those human rights violations have gone unpunished, which is a crucial challenge in terms of the administration of justice. In that context, it is necessary to strengthen and promote the investigation,

trial and punishment of the perpetrators and masterminds of those crimes, as well as reparations for their victims. Impunity breeds a systematization of violence which particularly affects the most vulnerable communities.

The IACHR also obtained abundant information about smear campaigns, threats, harassment, criminalization and various other forms of violence against human rights defenders in cities. The murders of city council member Marielle Franco and her driver, Anderson Gomes, clearly show that structural challenge and reveal resistance against the inclusion of historically marginalized communities into political and social participation structures. The IACHR believes it is essential to end investigations, punish those responsible and prevent impunity in that case. Further, and with a view to guaranteeing full reparation for those events, the IACHR thinks it is necessary to honor the memory of the victim and her family in accordance with the values that Marielle Franco stood up for.

During the visit, the IACHR received information from civil society organizations, social movements and the media about a gradual reduction of civil society's ability to put forward its demands and defend human rights. In that sense, the Commission was told about the use of force by law and order institutions to discourage demonstrations and protests; the launch of criminal proceedings for contempt and defamation against human rights defenders, demonstrators and journalists; and the stigmatization of anyone perceived as a social activist. Various sectors also expressed serious concern about the initiative known as "Schools Without Parties," promoted by certain political and religious sectors in Congress to restrict scientific academic freedom among teachers, who are allegedly also being harassed in educational centers for allegedly politicizing teaching. Such restrictions also affect the rights of children and adolescents to obtain diverse information and ideas in their education and to express their own opinions without pressure.

Regarding the religious issue, while Brazil's Constitution defines the country as secular, ensures a separation of the State from religious institutions and guarantees equal religious freedom for all, the IACHR observes with concern the emergence of bills and public policy initiatives that appear to be of a clearly religious nature. Religious freedom, for all religions, is a fundamental right that needs to be comprehensively enforced. Its exercise cannot be invoked as a hurdle for the exercise or enforcement of other human rights.

The IACHR highlights the fact that these Preliminary Observations reflect the indivisible and interdependent nature of violations of civil, political, economic, social, cultural and environmental rights in Brazil. Such rights make up an indivisible whole, and the IACHR stresses that the effective exercise of

democracy and the rule of law within a State require—as an essential prerequisite—the full exercise of all the fundamental rights and liberties of its residents.

## **DEMOCRATIC INSTITUTIONS**

Brazil is a democratic federal State committed to the rule of law. The federal Union brings together the country's 26 states and the federal district, comprising a total of 5,570 municipalities. Executive, legislative and judicial branches have been established at various levels and, together, make up a complex institutional architecture. The competence and attributions of the various branches and federal institutions are essentially defined by the 1988 Federal Constitution, which was enacted following the return of the country's democracy. The 1988 Constitution laid the groundwork to establish a State that sought to enforce rights, with a view to increasing social inclusion.

Since the IACHR's previous visit to Brazil, we have observed a major, continuous and growing process to strengthen institutions in terms of human rights. Over the years that have gone by, we have noted every institutional step, including the creation of a Human Rights Department in 1997, the stronger role of the Federal Public Defender's Office to defend citizens, the expansion and autonomy of public defenders, and the emergence of legal branches that specialize in various human rights issues and of institutions that specialize in the defense of minorities. Both in the various states and at the federal level, the Commission highlights the adoption of national and state committees for the defense of different human rights, the adoption of national and state plans to promote and protect human rights, the application of paradigmatic social policies and, above all, the expansion of civil society participation in public administration, which has enabled social control of public administration through boards and conferences.

In recent decades, Brazil has been a model and an example of the application and refinement of human rights policies under different governments, upholding a single institutional path and as a commitment adopted by the State and its political constitution. Such continuity and such growing maturity are crucial for national development. The adoption of a foreign policy that prioritizes human rights was one of the country's major achievements since 1988, and it was based on the Brazilian Constitution.

The IACHR observes with concern a reduction in the intensity of this process to strengthen human rights institutions. In particular, there have been significant rollbacks in the implementation of programs and public policies and in the preservation of budgets in essential areas, as verified in meetings and interviews during the country visit.

In the field of democratic institutions regarding human rights, participation and social control, the Commission observes with concern that institutions like the Fundação Nacional do Índio (FUNAI) have been weakened in recent years. During the visit to the Kaiowá Guarani community at the Tey'i Kue reservation, in the state of Mato Grosso do Sul, the Commission was able to observe a FUNAI facility that lacked appropriate resources and was told about a series of budget cuts and inadequate working conditions.

With regard to the Human Rights Defender Protection Program, the Human Rights Ministry told the Commission that the Program had been strengthened at the federal level with a budget that is set to last until the end of 2019, along with an almost threefold budget increase in the program's state-level networks. Based on the information that was shared during that meeting, nine agreements had been signed for implementation at the state level, although not all of those were in force at the time. The IACHR welcomes such progress and calls on the federal State and on individual states to speed up the process and to provide the program with an adequate structure, as soon as possible, so it may support human rights defenders covered by the program and grant them efficient and comprehensive protection. In particular, based on the information the Commission obtained during its visit, it is essential for the program to achieve effective implementation in rural areas and in areas that are far from urban centers, which is precisely where most of the reported acts of violence happen. Further, during a meeting with the Pará state Public Prosecutor's Office, participants stressed an urgent need to better coordinate the protection program with the various law enforcement agencies responsible for implementing protection measures. Finally, organizations and individuals active in the defense of human rights told the Commission of the program's budget deficiencies at the state level, where it is only granted resources through annual agreements.

The IACHR calls on the Brazilian State in general and on the various branches of power, federal institutions and autonomous bodies in the country in particular to adopt any measures necessary to strengthen democratic institutions, access to justice and public policies in the field of human rights. In particular, the Commission highlights the major role that autonomous institutions in the justice system—like states' Public Prosecutor's Offices, the federal Public Prosecutor's Office, and state and federal Public Defender's Offices—may play for the defense of human rights. The IACHR further urges Brazil not to enact laws that entail rollbacks for the promotion and protection of human rights,

considering the principles of progressivity and non-regression in terms of economic, social and cultural rights. The Commission calls on the State to provide both the Union's Public Defender's Office and the Federal Office for Citizens' Rights with the human resources they need.

## **RURAL VIOLENCE: ACCESS TO LAND, AND THE DEVELOPMENT OF PROJECTS THAT IMPACT THE ENVIRONMENT**

In recent years, the IACHR has repeatedly stressed that deficient demarcation of traditional indigenous and Afro-descendant territories and the lack of an effective public policy for agrarian reform and land access make the rights of those groups particularly fragile.

In the context of recognizing indigenous peoples' access to land, Brazil's Federal Constitution acknowledged the rights of indigenous communities over the land they have traditionally held. Further, Article 69 of the Acts on the Transitional Arrangements of Brazil's Constitution granted titles for land held by what is left of traditional Afro-descendant and Quilombola communities. Similarly, the Brazilian Constitution referred to the social role of property and allowed the expropriation of idle land and its inclusion in agrarian reform. During this visit, however, the Inter-American Commission heard several accounts regarding the difficulties and the long deadlines for those communities to be able to obtain titles for such land. Those difficulties encourage the occupation of State-owned land held by those communities by individual landowners and private extractive-industry companies, which causes disputes including eviction, displacement, land invasions and other forms of violence.

According to the records held by the Pastoral Land Commission (CPT, by its acronym in Portuguese), among the rural laborers who were fatal victims of land-related disputes in 2017, 21 were landless peasants, 11 belonged to Quilombola communities, and 6 were indigenous persons. The CPT further noted that only 8% of those murders had been investigated. In this context, the Commission expresses a deep concern over the increase in rural violence and the serious problem faced by tens of thousands of rural families who are evicted year after year from the land they live on or otherwise hold. The IACHR called on the State to immediately and urgently adopt all measures necessary to ensure the right to life, personal integrity and safety of land- and environmental-rights defenders in Brazil. In particular, the Commission highlighted the political and budgetary implementation of the National Program for the Protection of Human Rights Defenders.

The IACHR obtained abundant information about violent forced evictions enforced by the State and by groups of owners of large landholdings. The Commission heard the testimony of a survivor of the



massacre that was carried out at the Santa Maria estate, in Pau D'Arco, who said police officers were involved in killings there. The IACHR calls on the authorities to keep investigating with due diligence those events and other acts of violence against landless peasants and settlers, indigenous peoples and Quilombolas, with the aim of identifying and punishing the people responsible for them to end impunity and preventing similar events from happening again. The IACHR further urges the Brazilian State to address the structural causes of disputes linked to the fight for agrarian reform.

The IACHR observes that, in recent years, Brazil has implemented a development model based on huge projects and large-scale business activities, including monocultures, large-scale livestock production and pasture expansion; precious-wood logging; metal and non-metal mining; hydroelectric plants; and archeological extraction. The Commission has heard reports about at least 13 projects negatively impacting people's rights, particularly the rights to housing, food, water, life, land and cultural integrity, the right to work with dignity, and the right to prior, free and informed consultation.

The IACHR also had the opportunity to obtain information about the negative impact of the "consensus hydrograph" on the environment, in the context of the Belo Monte hydroelectric power plant. According to the information obtained by the Commission, the reservoir system to supply water to the plant's turbines was approved by the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA, by its Portuguese acronym) and by Brazil's National Water Agency (ANA, by its Portuguese acronym) without adequate prior consultation of local communities directly affected by the project. The water level on the large bend in the Xingu River has allegedly fallen as a result of the project, which has in turn impacted the region's ecosystems and the subsistence and economy of local communities. This is made worse by a new mining project known as Belo Sun, for which indigenous communities in the area have not been consulted. The IACHR has received abundant information from indigenous peoples in Açaizal, in Santarém, in the state of Pará, about pollution of rivers, groundwater and aquifers due to the indiscriminate use of chemicals including agrochemicals.

During its visit, the IACHR heard reports about the serious, often irreversible impact of mining on the environment in Brazil and about the lack of State action to protect the human rights of the affected communities and the communities that risk suffering human rights violations in such contexts. In that sense, the Commission visited the state of Minas Gerais to follow up on the situation of people affected by the Fundão dam failure in Mariana, on November 5, 2015. That dam's collapse claimed 19 lives and affected 39 municipalities in the Doce River basin, in Brazil's worst environmental disaster, which involved flooding of one of the world's largest marine biodiversity sanctuaries. Further, the IACHR was informed that, three years after the disaster, little progress had been made to investigate and punish those responsible and to provide reparations for the victims.

The IACHR notes that mining and toxic waste management in the affected dam are operated by private companies. In that context, it stresses that “States have a responsibility to protect people’s human rights from the violations committed in their territory and/or under their jurisdiction by third parties, including companies.”<sup>1</sup>Based on that, States have a duty to take appropriate measures to prevent, investigate, punish and provide reparations for violations committed in such contexts, while companies have a responsibility to respect human rights—which includes providing appropriate reparations to the affected people and mitigating any damage due to firm behavior—as well as a duty to exercise due diligence in such settings by, for example, assessing in advance any risks to human rights—including environmental risks—and adopting any measures required in the specific context of their commercial or productive activities.

The Inter-American Commission stresses the importance that such business can have for the prosperity of the hemisphere’s peoples and acknowledges that all States are free to exploit their natural resources by granting licenses and promoting public and private investment by national and international partners. However, at the same time, the Commission warns that such activities need to be accompanied by adequate, effective measures, to make sure they are not carried out at the expense of the human rights of individuals, communities and peoples or affect the environment at the relevant sites.

#### **AFRO-DESCENDANT PERSONS AND TRADITIONAL AFRO-DESCENDANT COMMUNITIES (*QUILOMBOS*)**

The IACHR is particularly concerned about the situation of traditional or tribal Afro-descendant peoples (Quilombolas), who continue to face violence, discrimination and exclusion as a result of historically rooted racist patterns in the country.

According to the 2016 National Permanent Home Sample Survey, 112.7 million people self-identify as Afro-descendants, including black and mixed-race persons, which is approximately 54% of Brazil’s total population of 207 million. However, the combination of a series of historical reasons and the fact that public policies have proved insufficient to achieve effective socioeconomic and educational inclusion have led to a perpetuation of structural discrimination and extreme social inequality in Brazil. That has meant that a high percentage of the country’s Afro-descendant persons continue to live in extreme vulnerability, marginalization and poverty.

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<sup>1</sup>/A Court H.R. Case of the Kaliña and Lokono peoples v. Suriname. Merits, Reparations, and Costs. Judgment of November 25, 2015. Series C No. 309, par. 224; IACHR. [Pueblos indígenas, comunidades afrodescendientes y recursos naturales: protección de derechos humanos en el contexto de actividades de extracción, explotación y desarrollo](#). 2015.

The concentration of violence in poor areas and the use of racial profiling mean that Afro-descendant persons—particularly young Afro-descendant men—face the highest probability of being homicide victims in Brazil and of suffering lethal force by police, as well as being the population group with the highest representation in the country’s prisons<sup>2</sup>. According to the figures published in the 2018 *Atlas da violência*, the homicide rate among Afro-descendants in 2016 was 2.5 times as high as among non-Afro-descendants (40.2%, compared to 16%). Over a decade in 2006-16, the homicide rate among Afro-descendants rose by 23.1%. Over that same period, the homicide rate among non-Afro-descendants fell by 6.8%. The Commission further considers it important to note that, over that period, the homicide rate among Afro-descendant women was 71% higher than among non-Afro-descendant women. Afro-descendant women are doubly vulnerable, on account of both their gender and their ethnic or racial background.

Further, high incarceration rates persist for Afro-descendants in Brazil. In 2014, the country’s prison population was found to be 67% Afro-descendant, 32% white and 1% Asian, while Brazil’s total population is 54% Afro-descendant, 45% white and 1% Asian.

Poverty rates among Afro-descendant persons are twice as high as among the remainder of the population<sup>3</sup>. According to the Brazilian Institute of Geography and Statistics (IBGE, by its Portuguese acronym), the unemployment rate disaggregated by skin color or race showed that the poverty rate among people who self-identify as white (10.3%) is below the national average, while the poverty rate among blacks (15.8%) and mixed-race persons (15.1%) is respectively 3.8 and 3.1 percentage points above that average. In the second quarter of 2012, when the national average was estimated at 7.5%, it was 9.5% among blacks, 8.7% among mixed-race persons and 6.2% among whites<sup>4</sup>. In that context, ethnic-racial background, gender and access to economic, social and cultural rights are clearly very closely interrelated. According to IBGE data from 2016, 31.5% of Afro-descendant women face restrictions in their access to education. The only higher percentage in that regard corresponds to Afro-descendant men (34%).

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<sup>2</sup>IPEA, [Atlas da violência 2018](#), June 2018.

<sup>3</sup>ECLAC, [Situation of Afro-descendant persons in Latin America and challenges on the policies aimed at guaranteeing their rights](#), December 2017. P. 74.

<sup>4</sup>Brazilian Institute of Geography and Statistics (IBGE, by its Portuguese acronym). *Síntese de Indicadores Sociais – uma análise das condições de vida da população brasileira* (2017). P. 82. Available on <https://biblioteca.ibge.gov.br/visualizacao/livros/liv101459.pdf>

During its *in loco* visit, the Commission observed a pattern of extrajudicial executions of Afro-descendant adolescents and young men in disadvantaged suburbs and *favelas*, based on meetings with members of the families of the victims of the so-called “May Crimes” (São Paulo), the Cabula massacre (Bahia), the Candelária massacre (Rio de Janeiro), the Acari massacre (Rio de Janeiro) and the Salgueiro massacre (Rio de Janeiro). The IACHR further saw a pattern of systematic impunity in such cases, particularly those where the suspects are officers of the security forces.

The Commission acknowledges the Federal Supreme Court decision of February 2018 that said Decree 4,887/03—on land demarcation—was unconstitutional and rejected a proposed time requirement to hand land titles over Quilombola lands. However, the IACHR stresses that the State must take measures to ensure land demarcation within a reasonable period and in accordance with agreed standards, and notes that the right to communal property necessarily implies that the State must demarcate the land held by tribal peoples and hand those peoples the relevant titles.

In that context, the Commission observed and heard with concern reports about legal disputes over Quilombola territories under the control of the Armed Forces, which have affected the rights to free movements, autonomy and self-determination of several such communities, including Quilombo de Rio dos Macacos (Bahia), Quilombo de Alcântara (Maranhão) and Quilombo de Marambaia (Rio de Janeiro).

As noted above, the absence of land demarcation and land titling, along with excessive delays and interruptions in such processes, may create a scenario that favors the emergence of disputes, by allowing the intrusion of landowners or peasants into traditional or ancestral lands. According to the information the Commission obtained, the number of murders of Quilombolas in Brazil increased from 4 in 2016 to 18 in 2017, which amounts to a 350% rise over that period<sup>5</sup>. That significant increase in violence against Quilombola persons coincides with a halt or delay in Quilombola land titling caused by a budget reduction at the National Institute for Settlement and Agrarian Reform (INCRA, by its Portuguese acronym)<sup>6</sup>.

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<sup>5</sup>Agência Brasil EBC, [Número de assassinatos de quilombolas em 2017 foi o maior em dez anos](#), September 26, 2018.

<sup>6</sup>INCRA, [Orçamento do Incra é tema de audiência pública no Senado](#), October 25, 2017.

The Commission observed a particularly worrying situation in the state of Bahia, at the *quilombos* Rio dos Macacos and Pitanga dos Palmares, where it heard reports of a systematic rights-violation framework that includes homicides, sexual violence, gender-based murders of women, domestic violence and threats, attacks and criminalization of the leaders of those communities. That violent context is compounded by the worrying impunity of such events, marked by a lack of diligent, conscientious and impartial investigations.

Further, in all the *quilombos* it visited, the IACHR found extremely worrying living conditions for residents. Along with extremely precarious housing and hygiene conditions, the IACHR found limited or non-existent access to healthcare and education services. In particular, the IACHR noted a pattern to prevent or restrict the availability of drinking water and basic sanitation, a pattern that was even implemented by Brazilian State officials or officers of the country's Armed Forces. In that context, the Commission believes that access to water is closely linked to respect for and enforcement of human rights, including the rights to life and personal integrity and the principles of equality and non-discrimination. The IACHR stresses that, in accordance with its obligation to fight discrimination, the State must promote fair and equal opportunities, inclusion and progress for those communities, which requires implementing programs and policies that can introduce access to healthcare, education and development within those traditional territories.

Further, the Commission found hurdles in access to medical services in Quilombola communities which included refusing assistance in medical emergencies, particularly in cases involving patients who require particular attention, such as children, women including pregnant women, and older adults. For example, in its visit to Rio dos Macacos, the Commission was informed of babies being delivered with no medical assistance, which led to newborn deaths although the Navy has a medical assistance post nearby.

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## **INDIGENOUS PEOPLES AND COMMUNITIES**

According to the IBGE's 2010 census, Brazil's indigenous population comprised 896,917 people, 572,083 of them in rural areas and 324,834 in towns and cities. There are currently about 305 groups who self-

identify as indigenous peoples, and 274 different languages<sup>7</sup>. With regard to those indigenous peoples, the Commission highlights the good will shown by the State during this *in loco* visit, but also warns of the challenges ahead to keep enforcing the individual and collective rights of indigenous peoples.

Based on the information it obtained, the Commission identified serious structural problems that affect indigenous peoples in the country and require urgent attention, such as the failure to demarcate indigenous land or delays in such procedures, which is made worse by the gradual institutional weakening of the Fundação Nacional do Índio over the past four years. As a consequence, one of the main issues associated with this problem involves harassment, threats and attacks on defenders and leaders of indigenous peoples and on indigenous communities who defend their own territory.<sup>8</sup>In that context, the IACHR recalls that the Inter-American Court of Human Rights, in the case *Xucuro people and its members v. Brazil*, recently ruled that the State must immediately and effectively enforce the collective property rights of the Xucuro over their territory. The Court further rules that the State must complete with the utmost diligence the pending remediation process, removing all obstacles or interference to enable the Xucuro's full and effective control over their territory within a maximum of 18 months.<sup>9</sup>

The IACHR further warns against the current restrictive interpretation of the right to free, prior and informed consultation. From the background information the Commission has obtained, that right is allegedly being applied exclusively to investment projects, not to all legislative and administrative measures that might affect indigenous peoples directly or indirectly<sup>10</sup>.

<sup>7</sup>United Nations, [Report of the Special Rapporteur on the rights of indigenous peoples on her mission to Brazil](#), August 8, 2016.

<sup>8</sup>The IACHR stresses that, in such cases, the loss of leaders or defenders or any injuries they suffer directly impact the ability of the remaining members of the group to exercise their own rights, and increases their defenselessness. For example, the Commission heard in 2017 about an attack in Povoado de Bahias, in the municipality of Viana (MA), against members of the Gamela indigenous people. On Sunday, April 30, 2017, scores of members of the Gamela people were holding territory they claim to be their own ancestral land when they were attacked with machetes by a group of peasants. Two indigenous persons had their hands cut off and another had his legs severed, five suffered gunshot wounds and 13 others suffered machete injuries (El País, [Conflito por terras no Maranhão termina com denúncia sobre mãos decepadas](#), May 2, 2017; The Guardian, [Brazilian farmers attack indigenous tribe with machetes in brutal land dispute](#), May 1, 2017; Comissão Pastoral da Terra, [Nota CPT MARANHÃO: Povo Gamela sofre ataque premeditado de fazendeiros contra suas vidas e lutas](#)).

<sup>9</sup>Inter-American Court of Human Rights (2018), case of the Xucuro people and its members v. Brazil. Judgment of February 5. Available in Spanish on: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_346\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_346_esp.pdf)

<sup>10</sup>As a result of the difficulties posed by centralized regulation on prior consultation, several indigenous communities and peoples have drawn up their own consultation protocols. For instance, the Mundurucu people approved its own protocol in an assembly on December 14, 2014. On July 25, 2014, the Wajãpi people approved the "Wajãpi Consultation and Consent Protocol," a document that was submitted to the National Department of Social Articulation at the Brazilian Presidency, to the Fundação Nacional do Índio and to the Federal Public Prosecutor's Office. DFL (2018), Implementación de la consulta y consentimiento previo, libre e informado. Experiencias comparadas en América Latina y discusiones sobre una ley de consulta en México, [http://www.dplf.org/sites/default/files/informe\\_sobre\\_consulta\\_y\\_cpli\\_mexico\\_final\\_web.pdf](http://www.dplf.org/sites/default/files/informe_sobre_consulta_y_cpli_mexico_final_web.pdf)

The IACHR notes the extreme vulnerability of indigenous peoples in voluntary isolation or initial contact in Amazonia given the presence of external people and activities related to extractive industry, which affects their way of life, their world view and their sociocultural representation as well as increasing the risk that they may become infected with common illnesses they are not immune to<sup>11</sup>.

In this context, in its monitoring efforts, the Commission heard evidence of the pressing health problems affecting the Yanomami indigenous communities who live in southern Venezuela and northern Brazil as a result of outbreaks of measles that are out of control. The lack of medical assistance in such cases endangers not only individual lives but also the cultural survival of their communities.

The Commission further met with a delegation of the organization Articulação dos Povos Indígenas do Brasil (APIB), which brought together representatives of the Pataxó and Tupinambá peoples from the state of Bahia, the Xucuro from Pernambuco, and the Terena from Mato Grosso do Sul. During the meeting, the APIB delegation informed the Commission of repeated attempts to criminalize its leaders.

The IACHR notes that, since the 2009 Federal Supreme Court ruling in connection with Petition No. 3,388/RR, in the Raposa Serra do Sol case, the time requirement principle established that recognition of the land rights of indigenous peoples required indigenous presence in the area subjected to the claim at the time the Federal Constitution was enacted (October 5, 1988), and that previously demarcated land could not be expanded. Since July 20, 2017, through Ruling 001/2017 GAB/CGU/AGU, all institutions in Brazil's federal public administration, including FUNAI, must follow those guidelines.

The IACHR was told that applying the time requirement condition could affect 748 administrative demarcation procedures that are ongoing in the country, since FUNAI can no longer pursue those procedures further once the Union's General Attorney's Office (AGU, by its Portuguese acronym) establishes that the relevant indigenous communities were not holding the affected land in 1988. As a consequence of Ruling 001/2017 GAB/CGU/AGU, the AGU may decline to appeal decisions from courts of first instance where courts revoke land demarcation after establishing that indigenous peoples were not holding the relevant land in 1988. That means such cases would not be taken to higher courts. Further, within the judiciary, the time requirement principle has been applied in several federal regional court decisions to revoke various instances of land demarcation.

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<sup>11</sup>[CIDH e ACNUDH expressam preocupação sobre denúncias de massacre contra indígenas em isolamento voluntário e contato inicial na Amazônia brasileira](#), September 21, 2017.

In Mato Grosso do Sul, the IACHR visited the Guyaroka indigenous land and was informed that the Federal Supreme Court had applied the time requirement principle to revoke several land demarcation procedures that had already been completed through the identification and demarcation report published on November 25, 2004. Fourteen years later, the community remains out of most of its land: of the 11,401 hectares that were identified as theirs, this indigenous people holds less than 5%. The IACHR was informed that, following the application of the time requirement, the community faces an imminent risk of eviction even from that small portion of its land. Further, applying that principle would ignore countless cases of forced evictions and internal displacements that prevented indigenous communities from effectively holding large portions of their land in 1988. The IACHR believes that the time requirement violates international and inter-American human rights rules and standards—particularly the American Declaration on the Rights of Indigenous Peoples—since the principle seeks to temporally restrict the territorial right guarantees of indigenous peoples when such guarantees stem from the very existence of those peoples.

In its visit to Mato Grosso do Sul, the IACHR was able to establish that the serious humanitarian problems faced by the Guaraní and Kaiowá peoples are to a large extent due to the violation of their land rights. The IACHR visited the Dorados-Amambaieguá indigenous land and obtained information about the victims of what is known as the “Caarapó Massacre,” where Clodiodi de Souza was killed and six other people—including a 12-year-old boy—were injured. The IACHR was informed of frequent armed attacks by militias that have already led to several deaths and disappearances. In a structural discrimination context, police forces also carry out raids—such as Caarapó I, involving the deployment of more than 200 police officers and a helicopter—that do not comply with human rights standards and apply collective search warrants that cover all homes in areas held by indigenous peoples.

The IACHR was further informed that one of the serious consequences of violations of the right to land has to do with the mass removal of indigenous children from their homes. In Caarapó, the IACHR also visited the María Ariane Educational Center (CEMA, by its Portuguese acronym), where 17 of the 19 resident children are indigenous. In Caarapó, the IACHR heard the testimony of Elida de Oliveira, who said her son, now aged 3, was taken away by the guardianship council as soon as he was born. The boy is currently at the home Lar Santa Rita in Dourados, as a result of a court decision that argued that his mother was poor and could not look after him. After hearing allegations of unwarranted removals of children from their families, the IACHR visited the María Ariane Educational Center in Caarapó and found that indigenous peoples were overrepresented there: 17 of the 19 resident children were indigenous. On the day the IACHR delegation visited Dourados, it was informed that an indigenous man had been shot in the Bororó area.



The Commission heard reports that the Guaraní and Kaiowá indigenous peoples are being subjected to territorial confinement and to a restriction of indigenous ways of life, forcing 80% of the population—currently the second-largest indigenous group in the country—to survive within less than 27,000 hectares that have been reservations for over 100 years. The IACHR was further informed of high homicide and suicide rates among members of those indigenous peoples. The Commission believes that overcrowding within reservations and disputes arising from this sort of confinement produce conditions that prevent the Guaraní and the Kaiowá from being able to live with dignity.

## **PEASANTS AND RURAL LABORERS**

The IACHR observes that peasants and rural laborers also face many challenges in their access to land and natural resources. During a visit to the Landless Workers Movement settlement in the Marabá municipality, in the state of Pará, the Commission was informed of the violence faced by settlers. The IACHR was told of violent evictions and of violent raids by police into the settlement. The Commission expressed concern that, according to those reports, police officers have taken part in some evictions alongside civilians and private security officers.

The IACHR notes that evictions may only be carried out in compliance with international standards and regulations regarding human rights and the principles of exceptionality, legality, proportionality and suitability, with the ultimate goal of promoting social welfare and providing solutions to the evicted persons, which may involve the return of the land, resettlement on different land that is either better or of a similar quality, and rehabilitation or fair compensation. Further, in case an eviction is necessary, States must protect the dignity, the life and the safety of evicted persons, ensuring at the very least their access to a diet that is both nutritionally and culturally adequate, safe drinking water and sanitation, shelter in adequate housing and clothing that is appropriate for the prevailing climate and other health-related issues, access to medical services, means of subsistence, education and justice, as well as ensuring access for humanitarian assistance and independent monitoring. Further, safe access must be granted to the common resources on which the evicted persons used to depend, including the chance to collect their property, utensils, crops and harvests.

The Commission was also informed of a strategy to violently attack the structure of rural life, through smear campaigns against rural schools and medical centers. For example, during a visit to a rural school in the municipality of Marabá, teaching staff told the IACHR delegation that local media had accused the school of training “guerrillas” and of indoctrinating students.

The Commission is concerned about proposed legislative changes in Act No. 13,260/16, which address ways of treating and investigating acts of terrorism. According to the information the IACHR has obtained, the proposed changes would remove Article 2, section V, par. 2, which excludes social movements from the list of suspicious categories<sup>12</sup>. For the Commission, the proposed changes could lead to a criminalization of social movements and of land- and environmental-rights defenders.

## VICTIMS OF FORCED LABOR OR SLAVE-LIKE PRACTICES AND VICTIMS OF HUMAN TRAFFICKING

In Brazil, contemporary forced labor and slave-like practices have been recognized since 1995. In rural areas, they are apparent in activities that are linked to livestock farming, sugar cane cultivation and coal production. In urban areas, they can be found in the construction and textiles industries<sup>13</sup>. According to the Brazilian Digital Observatory on Slave Labor, based on Labor Ministry data, 44,229 workers who were held in slave-like conditions were rescued in 2003-18<sup>14</sup>. Pará was the worst-affected state, with 9,880 such people rescued.

The basic profile of workers who are subjected to such practices involves men (95% of all cases) with little schooling (over 50% of all cases, with 31% involving illiterate persons) aged 18-44. They are generally internal migrants from states in the Northeast and the North. Almost 15% of them hail from the state of Maranhão<sup>15</sup>. There are also recurring cases in urban areas within large cities, like São Paulo, where several migrants who were victims of human trafficking and forced labor have been rescued from textile sweatshops that large companies outsourced work to<sup>16</sup>.

The IACHR generally observes that the problem may be due to socioeconomic aspects linked to victims' social vulnerability (poverty, lack of schooling, few employment prospects, restricted access to basic public services, low family income and irregular migration), which are in turn also linked to the will to maximize profits on the part of businesspeople and companies. There are also historical roots linked to the production model of colonial slavery, as well as cultural patterns involving exploitation in rural

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<sup>12</sup>Brasil de Fato, [Movimentos criticam proposta de alteração da lei antiterrorismo](#), February 26, 2018.

<sup>13</sup>Repórter Brasil, [Trabalho escravo contemporâneo: 20 anos de combate \(1995 – 2015\)](#), January 24, 2015.

<sup>14</sup>MPT, ILO, [Observatório Digital do Trabalho Escravo no Brasil](#).

<sup>15</sup>Repórter Brasil, [Trabalho escravo contemporâneo: 20 anos de combate \(1995 – 2015\)](#), January 24, 2015.

<sup>16</sup>Repórter Brasil, [Trabalho escravo nas oficinas de costuras](#), 2016.

areas. Further, legal impunity, the lack of effective punishment of those who engage in such practices<sup>17</sup> and the absence of prevention policies all contribute to the perpetuation of such behavior.

The IACHR observes, based on the information it has obtained, that the fact that many workers do not know their own rights is another challenge the Brazilian State needs to address. In many cases, workers do not see or identify themselves as people who are in slave-like conditions, even when they are subjected to degrading working conditions, forced into artificial debt, deprived of their personal identity documents and subjected to exhausting working hours.

During the visit, the Commission was informed of the current situation regarding public policies to repress forced labor in Brazil. Representatives of the Public Prosecutor for Labor (MPT, by its Portuguese acronym), The Labor Inspection Unit and the National Commission for the Eradication of Slave Labor (CONATRAE, by its Portuguese acronym) expressed concern over weakened policies. The IACHR observes that the budget to eradicate slave labor was halved 2014-17<sup>18</sup>. The number of auditing raids carried out by the Labor Ministry's Mobile Unit has been reduced to such an extent that, in August 2017, the Public Prosecutor for Labor filed a legal complaint to make the government keep up those raids. In October 2017, the government issued a resolution restricting the concept of slave labor and making it more difficult for the Mobile Unit to conduct auditing raids. That resolution was later suspended by the Federal Supreme Court<sup>19</sup>. The IACHR was also informed that, in 2015 and 2016, the "black list" of employers reported for exploiting slave labor was not published at all. In 2017, that "black list" was eventually published in the wake of a court warrant, which the Public Prosecutor for Labor had demanded<sup>20</sup>. Plans to scrap the Labor Ministry—announced in November 7, 2018—could cause irreparable damage to policies for the eradication of slave labor in Brazil, since that ministry is the government institution responsible for the effective implementation of such policies.

Further, representatives of the Public Prosecutor for Labor said that some items in the labor reform that was passed in July 2017 contribute to generating conditions analogous to those in slavery, such as outsourcing<sup>21</sup>, and make it difficult for workers to seek reparation before the judiciary with restrictions in access to justice and limited compensation for moral damage, which is tied to the worker's salary.

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<sup>17</sup>EBC Agência Brasil, [Brasil tem mais de 450 inquéritos sobre trabalho escravo sem solução](#), January 28, 2017.

<sup>18</sup>Aos fatos, [Dinheiro gasto no combate ao trabalho escravo cai à metade em três anos](#), October 23, 2017.

<sup>19</sup>Federal Supreme Court. [Ministra Rosa weber suspende efeitos da portaria ministerial sobre trabalho escravo](#), October 24, 2017.

<sup>20</sup>Ministério Público do Trabalho, [MPT pede a publicação atualizada da lista suja do trabalho escravo](#), October 25, 2017.

<sup>21</sup>Repórter Brasil, [Pesquisadores reunidos em São Paulo apontam relação entre trabalho escravo e terceirização](#), November 14, 2014.

**PEOPLE WHO LIVE IN POVERTY, ARE HOMELESS OR LIVE IN FAVELAS OR DISADVANTAGED SUBURBS**

As it noted in a report on the subject, the IACHR believes that poverty is a human rights problem that gives rise to obstacles for the full enjoyment and exercise of human rights on a really equal footing for people, groups and communities who live in such conditions. In some contexts, it further involves human rights violations that may be considered to violate the State's international obligations. Extreme poverty is a serious human rights problem due to its strong impact on the full enjoyment and exercise of human rights<sup>1</sup>.

During its visit, the Commission observed how poverty affects Brazil's various vulnerable communities, particularly people who cannot exercise their right to housing in the terms established by international human rights standards. The IACHR has obtained worrying information about the rise in poverty and extreme poverty in Brazil<sup>2</sup> and about the increase in hunger, to the point where Brazil might return to the FAO's "Hunger Map"<sup>3</sup>.

The Commission has observed a lack of access to proper food, water, sanitation and other essential public services—including electricity—among several communities in Brazil, including the homeless and people who live in *favelas* and disadvantaged suburbs. In its meetings with such groups, the IACHR heard many testimonies about a lack of access to healthcare, including essential medical treatment and psychological assistance for victims of violence and their families.

According to IBGE data, Brazil had an estimated population of 205,386,000 in 2016<sup>4</sup>. According to that same document, just over 24,851,000 people—equivalent to 12.1% of the country's total population—had monthly incomes of a quarter of the legally established minimum wage or less<sup>5</sup>. The official data obtained by the Commission indicated that, at the end of 2016, 29.9% of Brazil's population—which amounts to 61,410,414 people—had a monthly income of half the minimum wage in force at the time (R\$ 880.00) or less<sup>6</sup>.

Regarding access to housing, the government's largest and best-known program is called "Minha Casa Minha Vida" (My home, my life, in Portuguese) and seeks to enable low-income families to buy a home. Potential beneficiaries are divided into three categories, based on their monthly family income. According to a survey carried out by Brazil's Federal Senate, 4,542,599 homes were bought in the context of that program in 2009-16. Most of those families (91%) had a monthly income that put them

in categories 1 and 2 within the program, the lowest income categories<sup>8</sup>. The IACHR believes that housing programs are extremely important to fight poverty and extreme poverty in Brazil. The Commission highlights the need for equitable access to housing, where more economically vulnerable population sectors have the opportunity to exercise their social right to housing.

As the divide between rich and poor people in Brazil deepens, the IACHR also obtained information about a lack of effective public policies to settle urban land and to really enforce the right to housing<sup>9</sup>. The interests of real estate firms were said to often prevail over those of people without access to housing. Such factors have led, on the one hand, to a disorganized increase in informal urban settlements, widely known as *favelas*, and, on the other hand, to a significant rise in the number of homeless people. According to a survey carried out by the Institute of Applied Economic Research (IPEA, by its Portuguese acronym) that was published in October 2016, there are an estimated 101,854 homeless people in Brazil<sup>10</sup>. During the meeting the IACHR held with the Human Rights Ministry, current figures were estimated at around 112,000 people. The Commission is concerned about the number of homeless people in the country and about the lack of official data about that phenomenon, which makes it more difficult to correctly assess the situation and to develop public policies to address the issue.

The State has provided the IACHR with information about its institutions and public policies that deal with assisting the homeless. According to a document provided by the Social Development Ministry (MDS, by its Portuguese acronym), the National Department of Social Assistance would be generally in charge of managing public policies aimed at the homeless. Such public policies are all part of the Single Social Assistance System (SUAS, by its Portuguese acronym). In that context, the most important normative framework to assess the problem is the National Plan for the Homeless, which was created through Decree No. 7,053 of December 23, 2009. It defines the homeless as a “heterogenous portion of the population with common traits including extreme poverty, severed or fragile family ties and the lack of a regular, conventional home, which uses public spaces and degraded areas as a living and sustenance space, whether temporally or permanently, whether in terms of shelter for temporary accommodation or as temporary housing.” According to MDS data, services aimed specifically at the homeless are provided in an institutional way at the so-called “Centros Pop,” whose main goal is to provide daily assistance to homeless people. The Human Rights Ministry says that efforts are ongoing to also provide such services at night.

Based on an evolutionary interpretation of inter-American standards regarding the right to housing, the IACHR agrees with the United Nations’ Committee on Economic, Social and Cultural Rights: “The right to housing must not be interpreted in a strict or restrictive sense that makes it equivalent, for example, to the shelter that stems from the sheer fact of having a roof over your head, or exclusively as a matter of comfort. Instead, it must be regarded as the right to live somewhere in safety, peace and dignity”<sup>11</sup>.

Further, housing needs to be adequate, which means “having a place where we can isolate ourselves if we want to, with adequate space, adequate safety, light and ventilation, adequate basic infrastructure and adequate access to employment and basic services, all at a reasonable cost”<sup>12</sup>. In all its meetings, the IACHR confirmed that homeless people and *favela* residents lack adequate housing but also the safety, peace and dignity required to enforce their right to housing.

The IACHR has observed with concern the social exclusion affecting the homeless, who suffer the stigmatization of their struggle in urban centers even as they deal with public policies that inadequately address their needs.

The IACHR visited the Vila Nova Palestina community in São Paulo, which is suffering smear and stigmatization campaigns against its demands and the risk of a rollback. The community is still fighting for formal recognition of its settlement. The Commission was told that, when homeless people are removed from the streets, no strategies or alternatives are put forward to enforce their right to housing. In Coroadinho (Maranhão), the IACHR visited one of the poorest neighborhoods in the country, where residents suffer social marginalization and State abandonment as well as a lack of assistance to cover their basic needs. The IACHR wants to highlight the role of women in that community, as they take action to prevent social conditions in the neighborhood from getting worse.

In São Paulo, the IACHR heard allegations about extremely vulnerable homeless people who suffer from police abuse, ill-treatment and, above all, a lack of prospects for a life of dignity, with minimum access to essential public services. The dehumanizing environment surrounding residents of Cracolândia, in São Paulo, must be a priority: it demands a differentiated response from state authorities.

During the visit, the IACHR had the opportunity to meet with civil society, with homeless people and with the movements that advocate for them at the Center for Inclusion Through Art, Culture, Work and Education (CISARTE, by its Portuguese acronym). The IACHR highlights the importance of this sociocultural space as a place for cultural, social and professional development for homeless people, and encourages the authorities to speed up proceedings to grant CISARTE control over that space.

The Commission is concerned about the fact that institutional violence and impunity remain a problem in Brazil. During its visit to São Paulo, the IACHR saw the critical impunity affecting the rights of the May Mothers movement. The serious, diligent and adequate investigation they demand into the mass killings of hundreds of people over a short period in May 2006 remained pending.

The IACHR further obtained information about the implementation in recent years of economic austerity measures that have had a particularly serious impact on vulnerable groups and groups that have suffered historical discrimination in Brazil. The IACHR observes that, with the adoption of amendment No. 95 as mentioned above, Brazil's Constitution no longer applies substantial differentiation to ensure public policies aimed at reducing extreme poverty and improving the living conditions of homeless people and *favela* dwellers.

The IACHR and its Special Rapporteur for Economic, Social, Cultural, and Environmental Rights (ESCER) are very concerned about the existence in Brazil of a fiscal policy that imposes long-term restrictions on public investment and therefore ignores the non-regression principle with regard to economic, social and environmental rights. In this context, the IACHR stresses what it wrote in its report on poverty and human rights: "Poverty and extreme poverty cannot be fought and eradicated without a broad framework of redistributive public policies that reduce the region's extreme levels of socioeconomic inequality"<sup>13</sup>.

Finally, the IACHR is concerned about the impact of corruption on respect for human rights, particularly social rights and the fight against poverty. In that context, the Commission stresses: "Corruption in the management of public resources jeopardizes governments' ability to fulfil their obligations regarding social rights, including healthcare, education, water, transportation and sanitation, which are essential to enforce economic, social, cultural and environmental rights, especially for the most vulnerable individuals and groups"<sup>14</sup>. The Commission further stresses the importance of fighting corruption, in order to guarantee the full enjoyment of human rights and especially of economic, social, cultural and environmental rights, whose effectiveness depends on public policies and budgets<sup>15</sup>.

## **PEOPLE IN STATE CUSTODY**

### ***Persons deprived of their liberty***

The IACHR welcomes the Brazilian State's various efforts on this issue, particularly those aimed at reducing the use of pretrial detention. Such efforts include improving the efficiency of judicial control over arrests, through custody hearings and the promotion of alternative measures. In particular, the IACHR notes the adoption of a gender focus for the application of house arrest, with the February 2018 ruling by the Second Chamber of the Federal Supreme Court that grants the benefit of house arrest to

all women and girls in pretrial detention who are pregnant, have children aged 12 or younger or have dependents with disabilities. The Commission further notes that the State has announced initiatives to expand and improve social reintegration programs.

Despite all that, Brazil has the fourth-largest prison population of any country in the world, with a total of 726,712 incarcerated people in 2016<sup>22</sup>. The country shows an overcrowding rate of 197.4% and its prison population grew by 212% in 2000-16<sup>23</sup>. Of the total number of people deprived of their liberty, 91.2% are men and 5.8% are women<sup>24</sup>. The increase in the female prison population is a cause for special concern for the IACHR, because it has risen twice as much as the male prison population over the same period<sup>25</sup>. Further, the Commission observes with concern that Afro-descendant persons are overrepresented in the correctional system, at 64% of the total prison population<sup>26</sup>. In this context, the UN's Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted that major institutional racism in Brazil means that Afro-descendant persons face a significantly higher risk of mass incarceration, torture and ill-treatment, and discrimination in prison. They are also handed longer sentences for the same crimes, compared to non-black defendants<sup>27</sup>.

The State's efforts to reduce the number of people deprived of their liberty have involved building new prisons. The Commission notes that building more prison space is not necessarily an adequate solution to the Brazilian prison system's current problems, and that it is not sustainable over time. The increase in the prison population is, after all, a direct consequence of the implementation of the State's criminal justice policy. However, in some cases, increasing the number of prison capacity or otherwise improving infrastructure may be necessary to fight overcrowding.

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<sup>22</sup>National Prisons Department and National Ministry for Justice and Public Security, *Levantamento Nacional de Informações Penitenciárias (Infopen)*, updated in June 2016. Brasília - DF, 2017. P. 8.

<sup>23</sup>Incarceration facilities hold 36,049 inmates. National Prisons Department and National Ministry for Justice and Public Security, *Levantamento Nacional de Informações Penitenciárias (Infopen)*, updated in June 2016. Brasília - DF, 2017. P. 8.

<sup>24</sup>National Prisons Department and National Ministry for Justice and Public Security, *Levantamento Nacional de Informações Penitenciárias (Infopen)*, updated in June 2016. Brasília - DF, 2017. P. 11.

<sup>25</sup>National Prisons Department, Brazil, [Levantamento Nacional de Informações Penitenciárias – Infopen Mulheres, 2ª edição](#) [available only in Portuguese], 2018.

<sup>26</sup>*Ibidem*. P. 32. Regarding race-related information, the states of Maranhão, Pernambuco and Mato Grosso do not collect such data, which affects the final figures, especially taking into account their large number of prisoners (8,835; 34,556; and 10,362 total incarcerated people respectively). Mattos Filho, Report of the rights of people deprived of liberty in Brazil, October 2018.

<sup>27</sup>Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on its August 3-14, 2015 mission to Brazil, A/HRC/57/Add.4, January 29, 2016. Par. 29.



The IACHR observes that the increase in Brazil’s prison population and the high rates of overcrowding stem mainly from a criminal justice policy that seeks to solve security problems with incarceration as the preferred option. State policies with regard to drugs are an example. Act No. 8,072 of 1990 details heinous crimes and gives drug trafficking the same treatment. Similarly, Act No. 11,343 of 2006, while it no longer criminalizes personal drug use, was vaguely worded to grant the police discretion in terms of defining the crime and its classification as drug trafficking. That law further imposed tougher sentences for such crimes. This has disproportionately affected women, and the crimes of drug trafficking and drug use have become the main cause of their deprivation of liberty. Some 62% of all incarcerated women are there for drug-related crimes, compared to only 26% of all incarcerated men. These figures are particularly worrying since most of those women only carry out “support” tasks, such as transporting drugs and small-scale dealing<sup>28</sup>.

The State has taken several actions to decriminalize drug possession and transport for personal use, in order to reduce prison overcrowding. However, justice officials continue to prioritize punitive measures rather than adopt an approach based on human rights and public health. The current lack of public safety confirms that the criminal justice policies adopted by the State have not been able to effectively reduce violence. In that sense, the IACHR stresses that there is no empirical evidence to show that policies based on greater restrictions of the right to personal liberty have a real impact on the reduction of crime and violence or solve public safety problems to a greater extent.

Despite the exceptional nature of pretrial detention within Brazilian legislation and despite efforts to reduce its application, 40% of all prison inmates—which amounts to a total of 292,450 people—are in pretrial detention<sup>29</sup>. In particular, the Commission notes that one of the main elements to reduce the use of pretrial detention—one of the region’s best practices—involves holding custody hearings, which can lead to a reduction in the rate of application of pretrial detention in flagrant cases. The IACHR has obtained information that suggests that there are not enough courts to hold such hearings and that judges decide on whether to apply pretrial detention based on the seriousness of the crime, on public order issues or on the suspect’s criminal record. The Commission has also expressed concern over figures it obtained during hearings that point to a lack of investigation and monitoring of allegations of ill-treatment and torture during detention<sup>30</sup>.

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<sup>28</sup>National Prisons Department, Brazil, [Levantamento Nacional de Informações Penitenciárias – Infopen Mulheres](#) [available only in Portuguese], November 5, 2015.

<sup>29</sup>National Prisons Department and National Ministry for Justice and Public Security, [Levantamento Nacional de Informações Penitenciárias \(Infopen\)](#), updated in June 2016. Brasília - DF, 2017. P. 8.

<sup>30</sup>IACHR, *Report on measures aimed at reducing the use of pretrial detention in the Americas*, 2017.

The deplorable conditions of detention that prevail in prisons put the lives and integrity of detainees at risk and amount to cruel, inhuman and degrading treatment. Those conditions include alarming levels of overcrowding, deficient infrastructure, a failure to separate charged and convicted inmates and a conspicuous shortage of correctional officers. Similarly, the Commission has heard reports about prison facilities with negligent medical care, a complete lack of hygiene, an absence of essential items, inadequate food (in terms of both quantity and nutritional quality), a lack of effective social reintegration programs and a failure to differentiate treatment for the various groups of inmates. In some incarceration facilities, there have been situations that endanger the personal integrity of people who visit inmates, with obstacles that interfere with prison visits, a lack of dignified facilities for such visits to take place and the application of degrading inspections. In that context, the Commission notes that bodily inspections of visitors in incarceration facilities must be carried out with adequate sanitation by qualified staff of the same gender, and that they must be compatible with human dignity and respect fundamental rights. The State must resort to alternative measures that take into consideration appropriate procedures, technology and methods.

In particular, the Commission is concerned over alarming conditions at the Jorge Santana Unit in the facility known as Complexo Penitenciário de Gericinó (Bangú), which entail serious risks for detainees' lives and integrity. The Commission notes that the 1,833 inmates at the facility—all of them in pretrial detention—are permanently locked up, in deplorable conditions, in cells at almost three times their capacity. Further, those inmates have no access to any activities and get no time outdoors. This problem is allegedly due to understaffing, which was clearly apparent on the day of the IACHR visit: only five correctional officers were on site for the whole facility, equivalent to one officer per 366 inmates. The situation is particularly risky for inmates in cells A and B, since they were arrested in police raids and some of them have gunshot wounds. The Commission observed a clear lack of medical care, which was apparent, for example, in significant wound infections. The Jorge Santana Unit objectively shows some of the worst conditions of detention in the Americas.

Reports about the persistence of incarceration facilities that are under the control of criminal organizations who effectively manage such facilities and dominate drug trafficking within them are of particular concern. That criminal control, along with the deplorable conditions of detention that prevail in Brazilian prisons, might cause clashes and tensions with high levels of violence. The Commission highlights the lack of control by correctional authorities at the Penitenciária Agrícola de Monte Cristo, in Roraima, and notes that the facility is effectively managed by a criminal gang. Among the consequences of this lack of control, the Commission highlights that the authorities do not enter inmate areas at the facility, so the IACHR delegation had no access to those areas. This situation has caused significant deterioration in the unit's physical structure, along with inadequate access to water, and it has also led to deplorable conditions in basic sanitation. Similarly, the lack of control by the authorities affects inmates' access to education and employment.

According to the National Mechanism to Prevent and Fight Torture, several disappearances of incarcerated persons have happened at various correctional facilities around the country since the prison riots of early 2017. In particular, the IACHR is concerned about an apparent failure to launch investigations into the whereabouts of missing persons, who were instead allegedly recorded as “fugitives.”<sup>31</sup>

Finally, the IACHR heard—in repeated consistent testimonies—allegations of ill-treatment and torture committed by military and civilian police officers during arrests and interrogations. The Commission was further informed of ill-treatment committed in incarceration facilities by correctional officers and by officers of the Rapid Intervention Group (GIR, by its Portuguese acronym) and the Rapid Intervention Cell (CIR, by its Portuguese acronym). Recent use of such military police raids is linked to a tougher policy to punish persons deprived of their liberty, and also to the adoption of emergency disciplinary regimes to emulate the differentiated disciplinary regime that prevails within the federal prison system. This is particularly worrying given that, based on a large number of testimonies, most detainees do not report such events for fear of retaliation. The IACHR condemns all forms of torture and notes that, while all people have the right to personal integrity at all times, the absolute ban on torture and ill-treatment is especially relevant to protect persons deprived of their liberty, who are also completely defenseless before officers of the State.

### ***Socio-educational centers***

According to the figures held in the annual survey of the National System of Socio-Educational Assistance (SINASE, by its Portuguese acronym), 26,450 adolescents and young people (aged 12-21) were deprived of their liberty in Brazil on November 30, 2016<sup>32</sup>. With regard to the situation of teenagers in the criminal justice system, the IACHR acknowledges State efforts including the adoption of SINASE Act 12,594/2012. That piece of legislation shows the Brazilian State’s commitment to seeking actions that are consistent with international juvenile justice standards. However, the Commission has identified serious challenges in terms of applying and operationally implementing such actions, which have caused major deficiencies in facilities and in management within incarceration facilities holding adolescents.

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<sup>31</sup>National Mechanism to Prevent and Fight Torture. Information that was provided to the Commission on November 10, 2018.

<sup>32</sup>SINASE, [Levantamiento Anual](#), 2016.

The IACHR carried out a working visit to Brazil on November 13-17, 2017. On that occasion, through several mechanisms, the Commission addressed the serious structural and widespread challenges faced by the juvenile justice system. Instead of affording opportunities for social reintegration and to prevent recidivism, such challenges make it impossible to protect the rights of adolescents in the criminal justice system. The Commission stresses the observations that followed its working visit to Brazil in November 2017: high levels of violence, overcrowding, unhygienic conditions and lack of effective social reintegration programs prevail in socio-educational centers for adolescents. The Commission is concerned about constant allegations of ill-treatment committed by other inmates and by staff in such facilities.

During its visit to Dom Bosco, the IACHR heard several testimonies about the delays that are allegedly dominant in proceedings regarding adolescents and young detainees at that facility. The Commission is also concerned that—as in adult prisons—the lack of correctional staff means that most adolescents need to remain in their cells for over 23 hours per day, with exceptions when they eat outside the cell or have visitors on Saturday mornings. In this context, there is inadequate involvement in educational and reintegration programs, which joins the lack of objective eligibility criteria for such programs to defuse the rehabilitating aspects of detention. The Commission was also struck by the fact that adolescents and young people in the pretrial detention program are permanently kept in their cells, without being able to take part in reintegration activities. That is especially serious since no criminal activity has been proved for those adolescents.

Regarding teenage detainees, the Commission notes that Brazil must take special responsibility for protecting their rights, which requires special measures based on the principle of the child's best interests. In this context, adolescent detainees must not be subjected to violence or situations that endanger their personal integrity, dignity and development, and they must be held in facilities that keep them safe and provide them with shelter, education, healthcare and social reintegration activities.

Similarly, the Commission stresses that deprivation of liberty must be a measure of last resort, for the shortest possible period and with a view to rehabilitation rather than retribution. There is abundant evidence to prove that locking up adolescents is an ineffective measure in terms of addressing public safety issues. This kind of repressive action does not provide the conditions required to prevent them from reoffending, particularly when deprivation of liberty involves conditions like the ones the Commission saw evidence of during this visit.

Finally, the Commission expresses concern over initiatives aimed at lowering to 16 the age of criminal responsibility in Brazil. Such initiatives are inconsistent with the principles spelled out in the Convention

on the Rights of the Child, which Brazil has ratified. The Commission notes that subjecting people under 18 years old to the ordinary justice system totally negates their status as children and violates their rights. The IACHR further stresses the State's obligation to ensure that all the specialized procedures, authorities and institutions that deal with adolescent criminal offenses are based on international standards on the subject.

## **MIGRANTS, ASYLUM SEEKERS AND REFUGEES**

Brazil is currently seeing migrants leave, arrive and return. More recently, migration in Brazil has been boosted by intra-regional migration made easier by Mercosur Residency Agreements, such as Bolivian migration to São Paulo; Haitian migration following the devastating quake of 2010; and the mass arrival of Venezuelans that stemmed from the serious socioeconomic and political crisis, food shortages and lack of access to medical treatment and medication in Venezuela.

The IACHR welcomes legislative approval and enactment of the new Migration Law (Act No. 13,445/2017), which focuses on the human rights of migrants and was drafted with participation from civil society, public institutions and subject-matter experts.

The Commission observes that, based on Federal Police statistics, the number of migrants in Brazil rose by 160% over 10 years 2006-15<sup>33</sup>. By the end of September 2018, a total of 65,846 Venezuelans had requested asylum and a further 19,616 had acquired residency permits to remain in Brazil<sup>34</sup>. The IACHR observes that, given the mass arrival of Venezuelan citizens, requests for *refúgio* have increased significantly in recent years.

During its visit, the Commission travelled to Pacaraima and Boa Vista, in the state of Roraima, and was able to note good practices implemented by the Brazilian State in the framework of the so-called "Operation Welcome," to respond to the mass influx of Venezuelans—particularly with regard to their rights of entry into Brazilian territory, their right to non-refoulement and their right to request asylum—as well as the assistance those people receive in shelters opened by the Brazilian State with the help of the UNHCR, the IOM and other agencies within the United Nations system. The Migrant Screening and Assistance Center in Pacaraima, opened on June 18, 2018, enables Venezuelans to immediately request

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<sup>33</sup>G1, Em 10 anos, número de imigrantes aumenta 160% no Brasil, diz PE, June 25, 2016.

<sup>34</sup>UNHCR, Venezuela Situation, 2018.

temporary residency or *refúgio*, and issues documents including the Cadastro de Pessoas Físicas (CPF) and the Carteira de Trabalho e Previdência Social (CTPS), as well as providing vaccinations and special care to children and adolescents.

Further, the Commission was informed that the federal government had taken action to expand its internalization strategy, with a commitment to relocate an average of 1,000 people per month and to reduce as far as possible the number of Venezuelans living on the streets, as well as streamlining their socioeconomic integration in their host cities. The Commission values the fact that 1,980 people had been relocated in several Brazilian cities by September 23, 2018<sup>35</sup>. However, the IACHR is concerned about Venezuelans who remain homeless: they are extremely vulnerable and are more exposed to acts of xenophobia.

Further, in Rio de Janeiro, the IACHR obtained information from migrants and refugees about their own concerns and difficulties regarding the following issues: access to documents they need to obtain residency permits and formal migrant status; inadequate treatment at the hands of the migration police; the obstacles they meet to obtain visas and permits for family reunification; and delays in getting a final answer to requests for refugee-status recognition. The Commission further observes that Brazilian legislation sets no time limit for the completion of such procedures. The IACHR also heard complaints about cases of exploitation and worker discrimination, where migrants and refugees said they worked longer hours and received lower wages and that some migrants were being subjected to degrading working conditions and exhausting working hours.

## **PUBLIC SAFETY**

In recent years, the IACHR has consistently observed with concern Brazil's worsening violence and public safety situation. In 2017, Brazil had 30.8 violent deaths per 100,000 people, which according to the World Health Organization (WHO) amounts to an "epidemic of violence." The public safety crisis, particularly in urban contexts, has been particularly evident in state capitals, which have seen a rise in incidents involving an excessive use of force by police, a growing militarization of public safety policies and a repression of protests. Further, the homicide rate has increased, particularly involving homicides perpetrated against young black men and using firearms. The security crisis is also apparent in inefficient policies to prevent and reduce violent crimes (including policies to address drugs and organized crime), high rates of domestic violence and femicide, and delays in investigations and legal proceedings, with high levels of impunity.

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<sup>35</sup>UN, Report on Inter-Agency Emergency Response to the Venezuela Situation, September 27, 2018.

The Commission notes the Brazilian State's initiatives regarding public safety, which seek to reduce the number of willful murders and the problem of prison overcrowding, as well as streamlining investigations and legal proceedings in cases of domestic violence. The IACHR welcomes the recent enactment of Act No. 13,657 of June 11, 2018, which creates the Single Public Safety System (SUSP, by its Portuguese acronym), and the National Policy on Public Safety and Social Defense, which establishes a methodology for joint, coordinated action by public safety and public defense institutions at both the federal and state level, in coordination with civil society.

Similarly, the Commission heard reports about the fear that prevails within Brazilian civil society, given high levels of crime and violence. The State's response to that problem practically involves only police control over law and order, in the absence of efficient structural action to address violence and crime. Further, according to the Brazilian Public Safety Forum, responses to this issue have been insufficient to tackle persisting social dynamics, they accept violent patterns like domestic violence, gender-based violence and rural violence, and violence against certain social and demographic groups, such as the poor, young people and blacks, among others. The Forum further notes that legal proceedings have led, in practice, to a criminalization of poverty. That shows that there is no crime policy with a human rights focus that is able to address the serious violent crimes that continue to happen in the country. This situation has undermined the population's confidence in State action on this issue.

### ***Differentiated impact on people's safety***

The seriousness of the public safety scenario has a differentiated impact on women and other groups who are particularly at risk, such as Afro-descendants, young people and adolescents, people who live in poor areas, LGBTI persons, journalists, peasants, indigenous persons and human rights defenders.

With regard to the disproportionate effect of violence on Afro-descendant persons, as indicated above, 71 out of every 100 homicide victims in the country in 2016 were Afro-descendants. Further, 76% of all people killed in police raids in Brazil are Afro-descendants<sup>36</sup>. Afro-descendant young men are 2.5 times more likely to die violent deaths than non-Afro-descendant young men. The Commission noted the existence of institutional-violence policies against that population group, which perpetuate existing discrimination patterns and which are made worse by widely adopted practices including racial profiling, selective police persecution and overrepresentation in the prison system. That is due to the absence or

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<sup>36</sup>Fórum Brasileiro de Segurança Pública, [Um retrato da violência contra negros e negras no Brasil](#), 2017.

ineffectiveness of investigation or punishment for perpetrators or to the violence exercised by officers of the State, in violation of proportionality, exceptionality and necessity standards for the use of force. In this context, the IACHR stresses its profound concern over the ineffectiveness of measures aimed at preventing and reversing the systematic historical exclusion of Afro-descendant persons and their communities.

The prevailing historical discrimination and structural racism cause a special vulnerability for Afro-descendant and Quilombola women, which manifests itself in increased domestic and sexual violence and in the high number of homicides. According to the data issued by the Brazilian Forum on Public Safety (FBSP, by its Portuguese acronym), there were 60,018 rapes during 2017, up 8.4% over the previous year, and a total of 4,539 homicides of women, a 6.1% increase compared to 2016. Of those homicides, 1,133 were classified as femicides in 2017, compared to 621 the previous year. Based on those figures, the Commission warns about intersections between the violence, racism and misogyny that are deeply rooted within the country<sup>37</sup> and are evident in the fact that, while murders of non-Afro-descendant women are decreasing, murders of black women are on the rise.

Further, the IACHR has received worrying information about various forms of violence against lesbians, gays, bisexuals, transsexuals and intersex (LGBTI) persons in Brazil. The Commission observes a 30% increase in murders of LGBTI persons in 2017, compared to the previous year.<sup>38</sup> Of those crimes, a major portion affects Afro-descendant persons. Regarding children, the Commission notes with concern that Brazil ranks fifth among the countries with the highest child-homicide rates, which reflects the extreme violence Brazilian children are exposed to.<sup>39</sup>

Regarding violence against journalists and social communication specialists, the IACHR's Special Rapporteurship for Freedom of Expression reported over the past five years the murders of 11 journalists in Brazil for reasons allegedly linked to their professional activity, along with scores of other attacks. In 2018 so far, the IACHR has recorded the murders of four journalists. During its visit to the city of São Paulo, the IACHR was informed of serious online and physical threats received by several journalists, particularly women, during the recent election campaign. In January-October 2018, at least

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<sup>37</sup>Fórum Brasileiro de Segurança Pública. *Visível e invisível: a vitimização de mulheres no Brasil*, March 2017.

<sup>38</sup>[O Globo, Assassinatos de LGBT crescem 30% entre 2016 e 2017, segundo relatório](#), January 17, 2018.

<sup>39</sup>Save the Children, [Stolen Childhoods—End of Childhood Report 2017](#), May 31, 2017.



137 cases of attacks against communicators were recorded: 75 involved online attacks and 62 involved physical assaults linked to election coverage and to coverage of social protests.<sup>40</sup>

In the context of this visit, the IACHR noted the current government's self-proclaimed decision to officially include in the program for the protection of human rights defenders any communicators who received threats based on their work, as a group worthy of specific protection. This new focus for the program—now known officially as the Program for the Protection of Human Rights Defenders, Social Communicators and Environmentalists—was unveiled on September 3, through the Human Rights Ministry's Decree No. 300. Further, the Program's budget for 2019-20 was increased.

With regard to human rights defenders, the IACHR has repeatedly expressed concern about the violence and criminalization they face based on their defense work. In this context, in March, the Commission condemned the murder of Marielle Franco, a well-known human rights defender and city council member in the municipality of Rio de Janeiro. Her murder and that of her driver, Anderson Gomes, are an iconic case that reveals resistance against advocacy for the inclusion of historically marginalized communities into the structures of political and social participation.

Further, on July 27, 2018, the Commission condemned the murders of human rights defenders, particularly those linked to the defense of the environment, of rural laborers and of land. During the visit, the IACHR was informed of the rising number of murders of such defenders in recent years. According to a recent report that the Pastoral Land Commission (CPT, by its acronym in Portuguese) published in 2017, 71 homicides related to land disputes were recorded that year, a significant increase compared to the 61 murders recorded in 2016 and the 50 recorded in 2015. Similarly, the organization Global Witness said that, by 2017, Brazil had become the country with the highest number of murders of environmental rights defenders in the world.<sup>41</sup>

Given the structural discrimination that women face in the country, the Commission observes that female human rights defenders face sexist stereotypes that slam them for their involvement in public life and for their leadership in defense of their fundamental rights, their territory and their traditions.

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<sup>40</sup>Associação Brasileira de Jornalismo Investigativo (Abraji). October 8, 2018. [Abraji registra mais de 130 casos de violência contra jornalistas em contexto político-eleitoral](#).

<sup>41</sup>Global Witness. [A QUE PREÇO? O aumento dos assassinatos de defensores da terra e do ambiente em 2017](#). July 2018.

Based on the information received during its visit, the Commission warns that the number of urban murders of human rights defenders is being underreported. With a view to presenting such murders as the consequence of urban violence rather than as events linked to the defense of human rights, several murders of defenders are being recorded as consequences of individual disputes or as drug-related killings. Further, in cities, smear campaigns, criminalization attempts and violence are all apparent against human rights defenders.

In this context, the IACHR expresses a profound concern over the ineffectiveness of measures aimed at preventing and reversing the systematic historical exclusion and discrimination of certain people who belong to communities that are particularly at risk. The IACHR highlights the State's obligation to take measures to prevent the violation of rights linked to public safety, such as the rights to life, integrity and personal liberty. The Commission stresses that a State public safety policy must focus on the different dimensions of the problems that cause crime and violence, and take action to strengthen protection factors and reduce risk factors for specific groups and communities with respect to violence. It is therefore essential for such measures to involve a comprehensive approach and to be implemented in coordination with local communities.

### ***Violent deaths and an excessive use of force by police***

With respect to violent deaths, according to the FBSP's *Anuário Brasileiro de Segurança Pública*, there were 63,880 violent deaths in Brazil during 2017. That amounts to 175 such deaths per day, 70% of them involving firearms. Of those 63,880 deaths, 16,799 happened in state capitals. To a large extent, the increase was due to deaths caused by police (which rose by 20% compared to 2016), in clashes with police and in violation of international standards regarding the use of force. In this context, the Commission was told that extrajudicial executions mostly happened in contexts of retaliation or violent responses to attacks against police by organized crime groups and gangs, retaliation by officers of the State for the actions of those criminal associations, disputes for territorial control by criminal gangs, and social cleansing operations. A total of 21,897 people lost their lives in police operations in 2009-16<sup>42</sup>. In the state of São Paulo alone, more than 5,000 people were killed by the military police between April 2007 and May 2017<sup>43</sup>. In a further example, 11 people were killed in a raid by the Special Division for Investigation and Arrests (DEIC, by its Portuguese acronym) of the civilian police of the state of Alagoas

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<sup>42</sup>Fórum Brasileiro de Segurança Pública, [11 Anuário Brasileiro de Segurança Pública](#), October 30, 2017.

<sup>43</sup>UNIFESP. Relatório Final: Violencia de Estado no Brasil: uma análise dos Crimes de Maio de 2006 na perspectiva da antropologia forense e da justiça de transição. P. 15.

on November 8, 2018<sup>44</sup>. According to victim testimonies heard by the Commission, that pattern of action by law and order agencies has led to systematic, mass extrajudicial executions, mainly of young, poor black men in Brazil. The case known as “Favela Nova Brasília v. Brazil”<sup>45</sup>, which the Inter-American Court of Human Rights ruled on in 2017, exposed not only serious structural deficiencies in the criminal investigation methods that were applied, but also mass patterns involving an excessive use of force by a portion of the security forces against people who live in the numerous *favelas* around the country.

Although the old description of such deaths as “acts of resistance” was changed in 2016 to “homicide that resulted from opposition to police intervention,” the new terminology involves the presumption that the victim is guilty, since it is assumed that they were acting in opposition or resistance to police operations<sup>46</sup>.

Based on the report *Uma análise dos Crimes de Maio de 2006*, there is an execution pattern that shows that victims were hit by a large number of shots, in highly lethal areas (head and trunk) and, in most cases, that they had been shot from behind and at close range. Further, with respect to the production of evidence, the report shows that, in most cases, victims were assisted by police officers in uniform and that crime scenes were altered or there were no witnesses, which makes later investigation either difficult or impossible<sup>47</sup>. On this point, during the visit, civil society organizations said law enforcement officers plant evidence against victims to justify executions.

On the other hand, the extrajudicial executions committed by some police officers in Brazil have risked the lives of other police officers—who are exposed to retaliation for their colleagues’ violent acts of abuse—and lead to an increase in violence in clashes with suspects<sup>48</sup>. In this context, a total of 437 police officers—most of them were off-duty—were killed in Brazil in 2016. During its visit to Rio de Janeiro, the Commission met with relatives of police officers who had been victims of violence. Those families said they did not get the support they needed from the State and noted that civil society organizations generally do not include them in their demands.

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<sup>44</sup><https://noticias.uol.com.br/cotidiano/ultimas-noticias/2018/11/10/policia-vai-apurar-acao-que-matou-11-em-alagoas-apos-fotos-vazadas-e-suspeita-de-execucao.htm>

<sup>45</sup>Judgment of February 16, 2017, Preliminary Objections, Merits, Reparations, and Costs, pars. 01, 208 and 323.

<sup>46</sup>Anistia Internacional, *Notícia: Resolução do Conselho Superior de Polícia mantém a lógica dos “autos de resistência”*, January 5, 2016.

<sup>47</sup>UNIFESP. Relatório Final: Violencia de Estado no Brasil: uma análise dos Crimes de Maio de 2006 na perspectiva da antropologia forense e da justiça de transição. P. 214.

<sup>48</sup>Human Rights Watch. Brasil: Violência Policial Continua Sem Freios, January 18, 2018.

Working conditions for State employees including police officers and other law-enforcement agents in charge of public safety ultimately put them at risk. Better working conditions would lead to improved public safety. The Brazilian State must take action to professionalize officers of the State in charge of public safety, and adopt a public policy that takes into consideration the safety and the rights of those officers of the State, including police officers. Public policies about public safety need to focus on the creation or consolidation of State institutions that give effective and efficient answers to the demands of a democratic society with respect to security, in strict compliance with international human rights standards.

The IACHR further highlights the inefficiency of public safety policies aimed at addressing violence against the groups that have traditionally suffered discrimination and marginalization. The data show that the levels of violence and lack of safety in Brazil, particularly with regard to violent crimes and homicides, are closely linked to the number of firearms in circulation, in a context where 70% of the country's homicides are carried out using firearms.

The IACHR stresses that community involvement in the formulation and implementation of public safety policies is essential. In particular, the Brazilian police needs collaboration from the community to fight the high crime rates that cause fear among the population, and it must understand that an excessive use of force and executions that go unpunished generate even greater mistrust and erode the credibility of the police itself. The IACHR stresses that the use of force must respect the principles of legality, absolute necessity and proportionality. Together, those principles ensure that “the use of force is a last resort that must be limited both qualitatively and quantitatively and must be used only to prevent a more serious event than the one that led the State to intervene.”

The social impact of violence is devastating for families and profoundly affects communities' social structure. In that context, the victims and families who met with the IACHR during the visit said their lives were destroyed by acts of violence against themselves or their relatives. So many causes of violence linked to socially shared values and standards in the framework of that causal model gradually lead to normalization or to the existence of a “culture of violence.” Further, crime impunity perpetuates violence and creates an atmosphere that authorizes the act of taking a person's life. The IACHR strongly stresses the State's obligation to respect and enforce the rights to life and to personal integrity of all people; to investigate, try and punish all human rights violations, and to grant full reparations to victims and their families.

Last, the Commission notes that, according to unpublished data collected by the Brazilian Forum on Public Safety, 693,076 missing person reports were filed in Brazilian police stations in 2007-16.<sup>49</sup> Family disputes, organized-crime actions and State violence are some of the causes of those disappearances. Despite the high number of disappearances, that crime does not get adequate attention from public authorities, who believe that missing persons should be looked for and located by their own families. Further, there are not enough resources to identify all the bodies found by the authorities. In that context, the IACHR considers that fighting disappearance is a State matter and requires coordinated action from police, forensic institutions, social-assistance and healthcare agencies, and legal institutions.

### ***The militarization of public safety policies***

The IACHR was informed that Decree No. 9,288, published on February 16, 2018, grants broad authority to the armed forces for law and order tasks and places police forces under the command of an Army general in Rio de Janeiro. During the visit, the IACHR received information about the Rio de Janeiro Federal Intervention Office's Strategic Plan (GIF-RJ, by its Portuguese acronym), which sets various axes for action in emergency and structural cases, to support police forces and the prison system. The State noted that the plan for intervention contemplates actions linked to human rights, such as hiring healthcare professionals and donating medication. The State also said that indicators for crimes against life and crimes against property had improved significantly. The Intervention Observatory coordinated by the Center for Research on Security and Citizenship (CESeC, by its Portuguese acronym) has found that the results of the Strategic Plan paint a disappointing picture: the most sensitive indices remain high, including those for shootings, massacres and violent deaths, sometimes derived from the actions of State authorities. In February-June 2018, there were 2,617 willful murders, 736 people were killed by the police and 99,571 thefts were recorded. Further, no progress was made in the fight against organized crime or in changes to police management, support for integration or intelligence. Research coordinated by the Rio de Janeiro state Ombudsperson based on accounts provided by 300 residents identified 30 types of violations that state authorities systematically perpetrated in the context of Federal Intervention, including robbery and theft, property damage, sexual violence, extortion, threats and physical assault, executions and random shooting.<sup>50</sup>

In 2018, the IACHR and the OHCHR expressed their deep concern about that presidential decree, which authorized federal intervention in law and order tasks in Rio de Janeiro. In that context, they alerted

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<sup>49</sup>Jornal o Globo. Brasil registra 8 desaparecimentos por hora nos últimos 10 anos, diz estudo inédito. November 30, 2017. <https://g1.globo.com/google/amp/sao-paulo/noticia/brasil-registra-8-desaparecimentos-por-hora-nos-ultimos-10-anos-diz-estudo-inedito.ghtml>

<sup>50</sup><http://www.defensoria.rj.def.br/noticia/detalhes/6397-Comunidades-do-Rio-sofrem-30-tipos-de-violacoes-durante-Intervencao>

about the disproportionate impact that military intervention can have on the human rights of Afro-descendant persons, adolescents and people who live in poor areas<sup>51</sup>. They also noted that States need to restrict as far as possible their use of the armed forces to control internal riots, since they have been trained to militarily defeat an enemy rather than to protect and control civilians.

The IACHR insists on the rejection it voiced in October 2017 regarding the amendment of the military criminal code by Act No. 13,491/17, to establish that willful murders committed by members of the armed forces should be tried by military courts. The IACHR has maintained that investigation and trials before military courts into alleged human rights violations committed by military officers, particularly violations allegedly committed against civilians, preclude an independent and impartial investigation by court authorities with no ties to the command hierarchy of the security forces.

The implementation of the Rio de Janeiro Federal Intervention Office comes at the same time as that of the decree that allows operations under the Law and Order Guarantee (GLO, by its Portuguese acronym). GLO operations enable military officers to exercise policing powers until normal conditions are restored. Further, such operations can exclusively be carried out following explicit orders from the Brazilian Presidency in cases of serious law and order disturbances and when the capacity of traditional public safety forces has been exhausted. During the visit, the IACHR was informed that those operations are increasingly frequent, which consolidates a rationale for the use of the armed forces in public safety tasks.

In this context, the IACHR stresses that States have an obligation to ensure safety and preserve law and order, and that they may use force to such ends. That power, however, is restricted by the need to respect human rights, whose enjoyment implies the State's obligation not only to not violate such rights, but also to demand their protection and preservation. The actions of the State in the fulfilment of its security obligations must therefore ensure that any risk to basic rights is minimized by guaranteeing strict compliance with international principles and standards.

### ***Policies regarding drugs and the fight against organized crime***

In recent years, the IACHR has constantly and systematically received reports about the impact of State responses with respect to drug use and to the illicit trade in drugs. Drug-related policies focus on the use

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<sup>51</sup>IACHR, Press Release No. 47/2018, [Brazil: OHCHR and IACHR express concern over federal intervention in Rio de Janeiro](#), March 13, 2018.

of criminal justice—and therefore incarceration—and stem from a criminalization approach, rather than seeking to protect public health and reduce crime and violence levels.

In particular, these sorts of policies have had a disproportionate impact on social groups that have historically been marginalized and discriminated against in Brazil. In that context, the disproportionate effect on Afro-descendant persons manifests itself in their overrepresentation in the justice system, in the existence of a pattern of extrajudicial executions by officers of the State against Afro-descendant young men, particularly in city suburbs, and in the negative impact of State violence and organized crime on Afro-descendant adolescents, particularly those who come into contact with criminal law.

The IACHR further observes that policies to fight organized crime have involved a strong intervention by mechanisms of the State's security forces, which has led to frequent clashes with drug-trafficking organizations who seek to enforce their control over territory and over drug-trafficking routes. The IACHR observes that responses to this problem have largely had a repressive angle focused on criminal justice and on police activity, without adequate public health provisions and without reducing violence and crime.

According to the information obtained by the IACHR, the growth of criminal gangs around the country has directly impacted aspects such as detention center management, corruption of public officials, disputes for control of international arms- and drug-trafficking routes, and control over the most socially vulnerable areas and communities. That reality applies in several states and has a major impact on crime rates and on residents' lives, particularly in poor communities.

In 2017, the IACHR was informed about measures to find and arrest drug addicts in the drug-use area known as "Cracolândia," in São Paulo, with a view to having those people examined by a multidisciplinary team and to institutionalizing them, even against their will. There were also cases of police violence in the same area, including an excessive use of force and forced evictions of drug users<sup>52</sup>. During the visit, following a tour and talks with people who work on this issue, the Commission again insisted on the need to give a structural answer to this problem, from a public health perspective.

In this context, the IACHR warns of the high social, economic and institutional costs of the current intervention model, and of its negative impact on human rights. In particular, the IACHR stresses that

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<sup>52</sup>IACHR, Press Release No. 69/17, [UN Human Rights and IACHR Condemn Excessive Use of Force during Social Protests and during Security Operations in Brazil](#), May 16, 2017.

the State must focus more efforts on drug-related policies and on policies to prevent and reduce violence, which lead to more effective measures from a public health and a human rights angle.

### ***Therapeutic communities***

The IACHR has been informed of the existence of approximately 2,000 therapeutic communities, private institutions that belong to the National Drug Policy System and seek to rehabilitate people who have a problem with drug and alcohol abuse<sup>53</sup>. In particular, the Justice Ministry recently announced the allocation of 87 million real (about 24 million dollars) for such programs<sup>54</sup>. The Commission observes opposition from various actors with regard to such programs, because those actors give institutionalization priority over community-based options. Further, the National Inspection of Therapeutic Communities and other civil society organizations have established that, in such institutions, there are human rights violations including forced institutionalization, an arbitrary administration of psychotropic drugs, restricted family contact, limitations in access to personal documents and money, physical abuse, forced labor to replace staff and general services, violations of religious freedom and freedom of conscience, and the institutionalization of adolescents<sup>55</sup>.

In that context, and also considering that people who are receiving “health treatment” are particularly at risk, the IACHR insists on States’ obligation—in order to fulfil their duty to protect life and integrity—to regulate and audit all healthcare services provided under its jurisdiction, whether by public or private institutions. Further, as noted by several organs of the United Nations, the IACHR stresses that there is no scientific proof that the deprivation of liberty of drug users in hospitals contributes to their effective rehabilitation<sup>56</sup>. Based on that, the Commission stresses the importance of promoting alternatives to the deprivation of liberty, including outpatient treatment, that enable the problem of drug use to be approached from a public health and human rights perspective.

### ***Social protests: disproportionate use of force and criminalization***

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<sup>53</sup>Brazilian Federal Government, Justice Ministry, Press Release, [“Comunidades Terapêuticas são tema de Conferência Latino-Americana,”](#) July 12, 2017.

<sup>54</sup>Federal Government, Justice Ministry, [“Governo destina R\\$ 87 milhões a comunidades terapêuticas,”](#) April 25, 2018.

<sup>55</sup>Federal Psychology Council, National Mechanism for the Prevention of Fighting and Torture, Federal Office for Citizens’ Rights and Federal Public Prosecutor’s Office, [Relatório da Inspeção Nacional em Comunidades Terapêuticas](#), 2017.

<sup>56</sup>World Health Organization, [Principles of Drug Dependence Treatment](#), March 2008.



A vibrant civic space that is protected from attacks and threats is the cornerstone of stable and accountable democratic societies. In Brazil, such public space includes territorial as well as virtual and legal space, where individuals, human rights defenders and journalists all exercise their rights to freedom of association and expression and to peaceful assembly.

During this *in loco* visit, the IACHR received scores of complaints about restrictions of critical expressions in the contexts of social protests and the defense of human rights. The IACHR has observed that this situation has got worse in recent years, especially since 2013, with a worrying increase in the number of restrictions to the exercise of human rights in various social protests and demonstrations around the country.

In the city of São Paulo, the IACHR obtained information about several cases involving violence, an illegal and excessive use of force, and an indiscriminate use of less lethal weapons against demonstrators and graphic journalists, as well as about indiscriminate arrests by police during public demonstrations. Similarly, civil society organizations complained about an increased military police presence to disperse demonstrators in several states around the country, which intimidates people who wish to demonstrate.

Among the acts of violence that were reported, there was an assault on photographer Sérgio Silva, who was injured by a rubber bullet shot by the military police in 2013, as he covered a demonstration in São Paulo, and lost vision in his left eye. Similarly, in August 2016, student Deborah Fabri, who was taking part in a demonstration in São Paulo, was injured by shrapnel from a non-lethal bomb launched by the military police. That led her to lose vision in her left eye, too. Further, in March 2017, a 19-year-old young man was hit by a rubber bullet as he took part in a demonstration against violence in the town of Itambé, in the state of Pernambuco. He died of his injuries one month later. There have been complaints about the continued application of restrictive legislation and use of legal action—such as the *Interdito Proibitório*—to limit the number of demonstrations.

According to the information obtained by the Commission, criminal and administrative investigations of such human rights violations are rare and tend to lead to impunity. Further, the IACHR has observed the differentiated impact of such laws and practices on the most marginalized groups in Brazilian society. For example, the IACHR was informed that groups who demand land rights in Brazil—including peasants, indigenous peoples, Quilombolas and other traditional communities—have been subjected to arrests and criminal proceedings with a view to punishing and intimidating them for their demands for agrarian reform in the country. During this *in loco* visit, the Commission was informed that such criminalization appears to focus on social movements who demand access to land and housing.

The Commission also received worrying information about the criminalization, physical assaults and

psychological attacks that Brazilian adolescent students have suffered in the context of protests and social movements in the country, notably in protests against a set of education reform policies the state of São Paulo sought to implement in 2015. According to the information obtained by the Commission, while repression has subsided to some extent, persecution and violence persist against members of the secondary school student movement and inhibit their involvement in education policy matters. Many of those students suffer the psychological impact of that repression, including long-term psychological damage.

More recently, in the context of the 2018 election, students from several Brazilian universities held peaceful protests they defined as “anti-fascist” during the night of October 26, 2018, which were “banned” by election law. Universities in at least nine Brazilian states were subjected to actions by police and election officials to remove posters and other forms of expression, with the argument that they amounted to irregular election propaganda. On October 26, Brazil’s Attorney General requested a precautionary measure to suspend that ban based on election law, through an action known as *Arguição de Descumprimento de Preceito Fundamental* (ADPF). On October 31, the Federal Supreme Court unanimously suspended, in a plenary session, the legal and administrative proceedings that had led officers to enter public and private universities in several Brazilian states. In that decision, the Court said among others that “universities are spaces for freedom and for personal and political liberation. Their title implies plurality and respect for differences and divergence, because legitimate consensus can only stem from free expression. Dissonance is a characteristic of individual liberties. People dissent, but that does not make them enemies. People criticize, but that does not make them unwelcome. Democracy does not mean unanimity. Consensus does not mean imposition.” The IACHR welcomes the Federal Supreme Court’s decision.

Also in the context of the election campaign, women who coordinated actions to express their views online and on the streets were subjected to a series of physical assaults and acts of harassment on social media. The IACHR is extremely concerned that, according to the information it has received, the women who organized the online initiative allegedly received direct threats of physical and sexual violence, had their profiles hacked and were victims of doxing.

Finally, the IACHR obtained worrying information about a series of criminal proceedings and complaints, citing crimes such as contempt and defamation against reporters, human rights activists and demonstrators. Civil society organizations said police institutions allegedly resort to an excessive use of contempt laws against such groups, to criminalize forms of expression that are legitimate in a democratic society. The IACHR has stressed several times that contempt laws are not compatible with Article 13 of the American Convention. That is because the disproportionate use of criminal law to grant privileged protection to the honor of officials and other public personalities—even in cases that do not eventually lead to a criminal conviction—works to silence journalists and anyone who engages in public debate, as well as affecting the accountability of public officials and the functioning of the State.

Similarly, the IACHR has obtained information about court decisions that preclude the continuity of some forms of artistic expression based on a concept of public morality that is incompatible with a democratic society.

Civil society organizations also expressed concern over comments made during the election campaign about eradicating “activism” and State funds to finance civil society. Further, those organizations spoke about the debate that is ongoing in the Brazilian Congress to change the country’s Anti-Terrorist Act—approved in 2016 with strong opposition from civil society—and make it more restrictive. Those bills seek, among other things, to expand the concept of what may be regarded as an act of terrorism, which could be used to criminalize activists and social movements in the country. The IACHR notes that, on October 31, the Senate’s Commission on Justice and the Constitution (CCJ, by its Portuguese acronym) approved holding a public hearing to debate that act’s expansion, which entailed postponing the relevant vote in that Senate Commission.

### ***Speech that incites hatred and discrimination***

The IACHR observes with extreme concern the complaints it has heard about an increase in speech that incites violence based on discrimination, on public spaces and social media, particularly towards women, LGBTI persons, Afro-descendant persons in urban areas and social movements that promote the rights to land, housing and the environment.

According to those reports, many such comments on social media either hail from candidates to elected positions or public officials, or are endorsed by such people.

The IACHR observes that such comments by high officials would endorse the exercise of violence by groups with a racist, homophobic or misogynistic discourse.

The IACHR has repeatedly noted that public officials must adopt a public discourse that contributes to preventing violence based on discrimination, which in turn requires that such officials refrain from comments that expose various groups to a higher risk of violence. The Commission calls on the authorities to not only refrain from spreading hate speech against persons based on their gender, sexual orientation, race or condition, but also to contribute in a clear manner to developing an atmosphere of tolerance and respect where all people can express their ideas and opinions without fear of being attacked.

The IACHR notes that freedom of expression must be guaranteed not only to disseminate ideas and

information that are favorably received or regarded as innocuous or indifferent, but also those that offend, shock, unsettle or seem unsavory to public officials or to one sector of the population. However, Article 13.5 of the American Convention says that “any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.” The IACHR and its Special Rapporteurship for Freedom of Expression have stressed that, based on the general principles to interpret treaties, “endorsing hate” against a person based on their sexual orientation, gender identity or bodily diversity in a way that incites violence or “any other similar illegal action” falls under this provision and therefore violates the American Convention.

## **IMPUNITY**

The IACHR expresses concern over the high rates of impunity in the country and the lack of access to justice for victims of human rights violations and their families. The Commission observes that, based on official statistics, only 8% of all homicides are solved, which means that 92% remain unpunished. The Commission warns that such impunity rates are particularly serious in a country with a violent-crime rate as high as Brazil’s. Based on the information the IACHR received during its visit, the main hurdle to end such impunity lies in crime investigation, with anachronistic and ineffective criminal proceedings and with a civilian judicial police that lacks adequate infrastructure, staff and material resources and is the subject of corruption allegations.

With regard to police violence, the Commission observes, on the one hand, that the extremely unequal distribution of land has led to conflict over land and to human rights violations against Afro-descendants, Quilombolas, indigenous peoples, peasants and rural laborers, as well as defenders of human and environmental rights, and, on the other hand, that members of all those communities are often violently displaced, through harassment, threats and murders that generally go unpunished. Both in rural areas and in cities, impunity for such crimes is due—according to the Public Prosecutor’s Office—to the difficulties that stem from having crimes allegedly committed by police officers investigated by that same police.

Further, during the visit, civil society organizations informed the IACHR that high rates of impunity persist with regard to crimes against journalists, social communicators and human rights defenders in Brazil. According to research conducted by the Committee to Protect Journalists (CPJ), of the 17 murders of journalists in Brazil over the past 10 years (between September 1, 2008 and August 31, 2018), not one perpetrator has been convicted. The IACHR is extremely concerned about the

information it has obtained regarding the allegedly slow actions of court officials and the lack of transparency by the civilian police in charge of those investigations.

Finally, during its visit, the Commission was informed of a persisting context of impunity regarding serious human rights violations that have happened since the return of democracy. In many cases, the perpetrators and masterminds of those crimes have not been adequately identified, investigated or held accountable for their actions. The IACHR asked the Brazilian State for up-to-date information about investigations regarding the following cases: 1. Cases of murders and disappearances involving activists, social leaders and human rights defenders: Roberto Santos Araujo and Elivelton Castelo Nascimento (Ariquemes, Rondônia); Manuel Pro Almeida and Mara de Lourdes Fernandes Silva (Itupiranga, Pará); six rural laborers from the Iúna Quilombola community (Lucas, Bahia); Jorge Matias da Silva and Eraldo Moreira Luz (Marabá, Pará); Flávio Gabriel Pacifico dos Santos (Simões Filho, Bahia); João Ferreira dos Santos (Itacaraju, Bahia); Flávio Lima de Souza, Marinalva Silva de Souza and Jairo Feitosa Pereira (Canutama, Amazonas); 2. Cases of massacres in the country: Rocinha massacre in Curitiba (Paraná) - 2010/2011; Cabula massacre in Salvador (Bahia) - 2015; Pau D'Arco massacre (Pará) - 2017; Messejana massacre (Ceará) - 2017; Colniza massacre in Taquaruçu do Norte (Mato Grosso) - 2017; May Crimes massacre (São Paulo) - 2006; labor auditors massacre in Unaí (Minas Gerais) - 2009; Complexo do Salgueiro massacre (Rio de Janeiro) - 2017; Carandiru massacre (São Paulo) - 1992; Corumbiara massacre (Rondônia) - 1995; Eldorado de Carajás massacre (Pará) - 1996; 3. Cases of deaths in riot contexts or within the prison system: Deaths at the Aloísio Jobim prison complex in Manaus (Amazonas) - January 2017; Deaths at the Ênio dos Santos Pinheiro prison in Porto Velho (Rondônia) - October 2016; Deaths at the Monte Cristo prison farm in Boa Vista (Roraima) - October 2016; Deaths at the Presídio in the Fortaleza metropolitan area (Ceará) - May 2016; Deaths at the Pedrinhas prison complex (Maranhão) - November 2010; and Massacre at Casa de Custódia de Benfica (Rio de Janeiro) - May 2004; 4. Cases about serious disasters: Kiss nightclub fire (Rio Grande do Sul); Samarco dam collapse in Mariana (Minas Gerais and Espírito Santo); Compliance with the judgments of the Inter-American Court of Human Rights; Favela Nova Brasília case; Gomes Lund and others case ("Guerrilha do Araguaia").

With regard to this request, the State submitted information about the cases Favela Nova Brasília, Gomes Lund and others ("Guerrilha do Araguaia") and Deaths at the Pedrinhas prison complex, and requested a deadline extension to submit the remaining documents. The IACHR hopes to receive all the requested information and will make a decision on the matter.

The Commission warns that Brazil must take urgent action to ensure the principle of independence of the judiciary and to guarantee that the Public Prosecutor's Office is able to conduct investigations and to fulfil its role of exercising external control over police activities. The IACHR stresses that the Brazilian State has an obligation to investigate human rights violations in an adequate, effective and timely fashion, one of the positive measures it must take to protect the rights acknowledged in the

Convention. In light of that obligation, once Brazilian authorities are notified of such events, they must launch—without delay—*ex officio* investigations that are thorough, impartial and effective. Further, the Public Prosecutor’s Office must be granted the technical capacity and the materials it needs to directly conduct investigations in cases involving alleged extrajudicial executions perpetrated by police officers.

In particular, in cases of crimes against journalists, social communicators and human rights defenders, the Commission has noted that impunity contributes to self-censorship in the media and in the defense of human rights.

Finally, during its visit, the Commission was able to verify the role many Public Defender’s Offices play in the fight against such impunity. In that context, the IACHR urges the State to strengthen Public Defender’s Offices and to improve that institution’s human and financial resources.

***Impunity for serious human rights violations committed during the civilian-military dictatorship (1964-85)***

With respect to serious human rights violations, the Commission observes that Brazil has failed to conduct judicial investigations into the crimes committed during the dictatorship (1964-85), and that the country has also failed to adopt adequate non-repetition measures.

The Commission warns that the Federal Supreme Court’s 2010 decision (ADPF 153) to declare constitutional the 1979 Amnesty Act prevented any progress in investigations launched by the Federal Public Prosecutor’s Office into crimes committed during the dictatorship. In that context, the Inter-American Court of Human Rights’ judgment on the case Gomes Lund and others (“Guerrilha do Araguaia”)—issued a few months after that Federal Supreme Court decision—established that, based on inter-American human rights standards, the Amnesty Act was not applicable to serious human rights violations and crimes against humanity. The IACHR observes that, according to the information it has obtained, the Brazilian State is yet to fully comply with the Inter-American Court decision and the Amnesty Act is still being applied to such crimes.

Given the lack of judicial investigations, the IACHR welcomes progress made in access to the right to truth and reparation for victims of the dictatorship, as well as in recognition of State responsibility in recent decades. Among other things, the Inter-American Commission observes that the Brazilian State created in recent years the Special Commission for persons who were killed or went missing for political reasons, the Amnesty Commission and the National Truth Commission. Several truth commissions were

also created at various levels of state, municipal and local power. The IACHR observes that major progress has been made over the past decade with respect to reparation policies, initially restricted to financial aspects. Those reparation policies have been strengthened and supplemented with policies for psychological, symbolic and collective reparation, in the effort to adopt a more comprehensive approach.

The Commission expresses concern over the fact that many such initiatives to promote reparation and access to the truth have been reduced in recent years. Further, the IACHR has been informed that most of the recommendations issued by the National Truth Commission are yet to be implemented, while the creation of an institution that is in charge of that implementation remains pending. Finally, the IACHR observes that, while the National Truth Commission did record a figure for victims of the dictatorship, its final report notes that the total number of victims remains unknown to this day, particularly regarding peasants and indigenous persons murdered in the context of the Brazilian dictatorship.

In that sense, repeated jurisprudence from the Inter-American Court of Human Rights stresses the inadmissibility of amnesty, statute-of-limitations and accountability-exclusion provisions that seek to prevent investigation and punishment for anyone responsible for serious human rights violations (including torture, summary, extrajudicial and arbitrary executions, and forced disappearances), all of them banned as violations of imprescriptible rights acknowledged by international human rights law.

The inter-American system (particularly the Inter-American Court) observes that the provisions of Brazil's Amnesty Act that preclude the investigation and punishment of serious human rights violations are not compatible with the American Convention and lack any legal implications. They cannot remain an obstacle to prevent an investigation of events in this case or to identify and punish the people responsible for those events, the Commission stressed, and they also cannot have a similar impact on other cases of serious violations in Brazil of human rights acknowledged by the American Convention.

In that context, the IACHR stresses that—given the interpretation and application that Brazil has given its Amnesty Act with respect to serious human rights violations—the State must adapt domestic law to the American Convention on Human Rights.

#### **RECOMMENDATIONS:**

***Regarding democratic institutions and the role of auditing institutions, the IACHR recommends:***

1. Strengthening public institutions responsible for formulating, implementing and assessing public policies from a human rights perspective and which seek to protect the rights of the most vulnerable groups.
2. Strengthening the structure and budget of the Human Rights Defender Protection Program, to ensure the implementation of effective protection measures.
3. Refraining from passing legislation that reduces the effective enjoyment of human rights acknowledged by the Brazilian State in international treaties.

***Regarding indigenous peoples and communities, peasants and rural laborers, the IACHR recommends:***

1. Addressing the structural causes of disputes linked to the fight for land, by strengthening public policies aimed at agrarian reform and programs to prevent and address rural violence.
2. Ensuring that traditional Afro-descendant Quilombola peoples, indigenous peoples and peasants can use and enjoy the territory they have historically held, which implies granting them the relevant recognition, titles and demarcation through special procedures in which those groups are directly involved.
3. Executing and completing pending demarcation procedures, especially with respect to territories that are affected by massive projects and large-scale business activities.
4. Guaranteeing the right to prior, free and informed consultation with a view to obtaining consent, in compliance with inter-American standards on the issue and considering the characteristics, custom and usage of the relevant indigenous peoples and communities.
5. Ensuring full respect for and protection of the rights of indigenous peoples in voluntary isolation or initial contact, by setting up effective protection mechanisms to prevent and eradicate third-party access to the territories where those peoples are located. Further, the IACHR recommends



strengthening cross-sector healthcare plans to contribute to overcoming the health problems affecting those peoples.

6. Ensuring that evictions are only carried out in compliance with international standards and regulations regarding human rights and the principles of exceptionality, legality, proportionality and suitability, with the ultimate goal of promoting social welfare and providing solutions to the evicted population.
7. Adopting specific legislation at the federal and state levels, to address internal displacement in accordance with the Guiding Principles on Internal Displacement, as well as taking measures to prevent displacement, protecting and assisting evicted persons during their displacement, providing and facilitating humanitarian assistance and facilitating lasting solutions.
8. Adopting concrete strategies and goals to drastically reduce the number of murders and violent crimes in this case and to monitor investigations and criminal proceedings against the perpetrators of violence in rural areas—particularly with respect to acts of violence against traditional Afro-descendant Quilombola peoples, indigenous peoples and peasants—with due diligence and with the aim of identifying and punishing anyone responsible and thus fighting impunity and preventing similar events from happening again in the future.
9. Strengthening programs to protect peasants who live in an atmosphere of rights violations, and constantly identifying situations that pose serious risks for those people's lives and integrity.
10. Strengthening programs that respond to demands and enable faster solutions in conflicts that affect peasants and rural laborers.

***With regard to Afro-descendant persons and traditional Afro-descendant Quilombola peoples, the IACHR recommends:***

1. Taking any measures necessary to comprehensively review and reform the protocols and guidelines of local, state and federal institutions in charge of law enforcement, in order to guarantee that they comply with the international-law principles of equality and non-discrimination. In particular, this involves banning and explicitly punishing racial profiling and other explicitly or implicitly

discriminatory practices based on race, gender, skin color, national background or other similar aspects.

2. Implementing federal legislation to demand adequate training for officers and institutions in charge of local law enforcement, such as justice operators (including judges, public prosecutors, public defenders and other judicial staff at the state and federal levels), on their human rights obligations regarding non-discrimination and on avoiding implicit prejudice, along with other types of training to fight discrimination.
3. Guaranteeing adequate, quick and comprehensive reparation for all victims of police violence and their families, including financial support, medical and psychological assistance and measures to prevent re-victimization.
4. Regulating the right to prior consultation of Quilombola peoples, as established by Convention 169 of the International Labour Organization and by Inter-American Court of Human Rights jurisprudence, observing the *quilombos'* organization and decision-making processes even with regard to community consultation protocols.
5. Based on the free, prior and informed consultation of Quilombola communities, developing a national plan for land titling in Quilombola territories, including goals to structure the INCRA and gradual budget allocations, in keeping with inter-American standards and with Brazil's Constitution.
6. Guaranteeing comprehensive land titling in traditional Quilombola territories where it remains pending.
7. Adopting special policies and affirmative actions to ensure the enjoyment and exercise of the fundamental rights and liberties of persons and groups who are subjected to racism, racial discrimination or related forms of intolerance, to promote fair conditions involving equal opportunities, inclusion and progress for those persons and groups.
8. Ratifying the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention Against All Forms of Discrimination and Intolerance.

***As regards victims of forced labor or slave-like practices and victims of human trafficking, the IACHR recommends:***

1. Strengthening public policy for the eradication of slave labor, offering adequate resources for the operations of the Labor Ministry's Mobile Unit and regularly publishing records of employers who have been reported for exploiting slave labor ("black list").
2. Working to ensure the application of Article 149 of the Criminal Code, which sets a punishment for the crime of subjecting a person to slave-like conditions, and compliance with Article 243 of the Federal Constitution, which establishes that urban and rural property where such practices are exercised should be expropriated.
3. Strengthening preventive public policy to break up the cycle of contemporary slavery, promoting access to autonomous livelihoods and the socioeconomic integration of workers in their place of origin, as well as access to professional qualifications and finding new placements for rescued workers in the job market.
4. Strengthening programs that respond to demands and enable faster solutions in conflicts that affect peasants and rural laborers.

***As regards people who live in poverty, are homeless or live in favelas or disadvantaged suburbs, the IACHR recommends:***

1. Ensuring the adoption of public policies to address poverty that are comprehensive and cross-sectional and adopt a human rights focus with a gender and cross-sectional perspective.
2. Ensuring continuity and expanding the scope of the public policies the State is currently implementing to fight poverty and enforce social rights, introducing special programs that give priority to extreme poverty and to access to and enjoyment of the human rights—in accordance with international standards—of the poor, the homeless and people who live in *favelas*, particularly their rights to housing, water, food, healthcare and education.

3. Refraining from adopting policies, measures and legal regulations that are regressive in terms of economic, social, cultural and environmental rights (ESCER).
4. Reviewing all legislation, regulations, practices and public policies that imply differentiated treatment based on social conditions or that may have a discriminatory impact on people who live in poverty, are homeless or live in *favelas* or in disadvantaged suburbs.
5. Strengthening and creating mechanisms to promote active transparency and access to timely and adequate information within social policies and programs.
6. Taking measures to gather disaggregated statistical data about homeless persons, ensuring that the IBGE includes that aspect in its surveys.

***With regard to people in State custody, the IACHR recommends:***

*Persons deprived of their liberty:*

1. Taking any judicial, legislative, administrative and other measures necessary to reduce overcrowding and applying pretrial detention in accordance with the principles of exceptionality, legality, proportionality and necessity.
2. Promoting the application of alternatives to incarceration, with a gender perspective and differentiated approaches. In particular, the State must take any necessary action to effectively implement, in all states, the Constitutional Court's decision on house arrest with a gender perspective.
3. Establishing permanent review mechanisms for sentence enforcement, with a view to promoting the application of early release benefits.

4. Developing a drug policy with a comprehensive focus aimed at social reintegration, so that people who have been arrested for use or possession of drugs or who have committed minor crimes for their problematic drug use or dependence are not treated with a repressive, criminalizing focus, but rather from a public health perspective.
5. Ensuring a dignified treatment of persons under State custody, in accordance with the prevailing standards on deprivation of liberty and taking into consideration the special risks that may stem from gender and other aspects of the prison population.
6. Facilitating the necessary means for persons deprived of their liberty—including adolescents—to be able to file complaints or to report the treatment they receive in detention centers without suffering retaliation for doing so. Complaints need to be handled in a serious, expeditious and effective manner, so they enable sanctions against anyone responsible. Details about the number of complaints and their results need to be public. Following allegations of ill-treatment or torture, Brazil must immediately launch an effective *ex officio* investigation of events, in compliance with the prevailing standards on the issue, to identify, try and punish anyone responsible.
7. Regarding the available mechanisms to prevent and fight torture, the State must take any measures necessary to increase their financial and human resources so they may function better. Further, the Brazilian federal State must promote the creation of such mechanisms in those states that still lack them.

*Socio-educational centers:*

1. Undertaking any actions necessary to ensure that detention-center facilities offer appropriate security, accommodation, education, healthcare and social reintegration. Adolescents need to be placed in facilities that allow them to maintain contact with their families and keep them separated from adult inmates and from convicts.

***With regard to migrants, asylum seekers and refugees, the IACHR recommends:***

1. Promoting open and transparent proceedings to regulate migration laws and to draft a National Policy on Migrants, Refugees and Stateless Persons, so they both comply with inter-American human rights principles, rules and standards.
2. Guaranteeing recognition of the refugee status of Venezuelans with a well-founded fear of facing persecution if they return to their country, or who consider that their lives, integrity or personal liberty are under threat over justified fears of facing persecution based on their race, religion, nationality, social background or political opinions, as well as on the context of violence, the serious and widespread human rights violations and the serious disturbances of law and order in Venezuela.
3. Ensuring that migrants and refugees have access to economic, social and cultural rights, including access to education, employment and social security on an equal, non-discriminatory footing.
4. Implementing positive measures to fight discrimination and xenophobia against migrants, including educational and awareness-raising campaigns aimed at promoting multicultural societies.
5. Identifying people who may be particularly vulnerable, with a differentiated focus that includes special protection. Specifically, the rights of migrants and asylum seekers who are homeless or belong to indigenous peoples, such as the Warao, need to be protected.
6. With regard to Venezuelan migration, guaranteeing that any domestic measures adopted comply with the recommendations of IACHR Resolution 2/18 on the Forced Migration of Venezuelans.

**With regard to public safety, the IACHR recommends:**

*Differentiated impact on people's safety:*

1. Implementing public policies to address institutional racism.

2. Designing public safety policies with the participation of the people and communities they seek to serve.
3. Strengthening a well-coordinated and comprehensive public response, within the Single Public Safety System created by the National Policy for Public Safety and Social Defense (which has recently been approved), to regulate and implement it.

*Violent deaths and an excessive use of force by police:*

1. Developing an efficient public safety system, prioritizing the reduction of the country's high homicide and violent-crime rates along with programs for the prevention of violence.
2. Developing a strategy to refine investigations and criminal proceedings against the perpetrators of violence, with due diligence and with the aim of identifying and punishing anyone responsible and thus fighting impunity and preventing similar events from happening again in the future.
3. Increasingly investing in the professionalization and training of state officials in charge of public safety, and improving their working conditions.
4. Strengthening formal control mechanisms (local magistrates, ombudspersons and inspections) with the capacity to conduct autonomous and transparent correction proceedings, in order to fight corruption, abuse and power struggles.

*The militarization of public safety policies:*

1. Adequately adapting legislation to guarantee that criminal proceedings where the defendant is a military officer be handled by ordinary courts—rather than military courts—to prevent impunity in cases of human rights violations.

2. Developing citizen-focused public safety policies that prevent as far as possible the use of the armed forces to control internal riots.

*Policies regarding drugs and the fight against organized crime:*

1. Developing, in a broad and participative way, a drug policy that is based on human rights, with a comprehensive approach aimed at social reintegration that adopts a public health perspective, with objective criteria to differentiate the possession of drugs for personal use from the possession of drugs for trafficking. Such a policy should not focus on repressive actions and criminalization.
2. Investing in actions to prevent drug use and promoting alternatives to incarceration for cases of people who have committed minor offenses as a consequence of their drug problem or dependence. Such alternatives should include outpatient treatment that avoids institutionalization and enables the problem to be approached from a health and human rights perspective, with an adequate budget.

*Therapeutic communities:*

1. Auditing the medical attention and treatment provided in therapeutic communities, with a view to ensuring that they do not perpetrate human rights violations. In particular, the State must take any necessary measures to ensure: a) medical attention that respects the right to free and informed consent; b) treatment based on scientific evidence; and c) a ban on forced labor and on any form of ill-treatment based on different religious beliefs. Similarly, the State must immediately investigate any allegations of ill-treatment at such facilities.
2. Guaranteeing unrestricted access to mechanisms for the prevention of torture and to other independent monitoring institutions.
3. Investing on initiatives that favor outpatient care and avoid institutionalizing drug users.

*Social protests: disproportionate use of force and criminalization:*



1. Guaranteeing that, in protests and social demonstrations carried out in the exercise of the right of assembly and peaceful demonstration in Brazil, demonstrators' rights to life, personal integrity and personal liberty are protected.
2. Developing policies, strategies and special training focused on techniques that favor negotiation and peaceful conflict-resolution.
3. Decriminalizing "crimes against honor"—contempt, malicious accusation of a crime, defamation and slander—and turning them into civil-law actions when they involve public officials or public interest cases, in compliance with international standards and best practices.

*Measures to fight discrimination:*

1. Refraining from producing regulations that either are discriminatory or have discriminatory effects on various population groups in terms of the exercise of their rights.
2. Fighting discriminatory practices on every level, especially within public institutions.
3. Adopting affirmative action measures to ensure the effective equality of all people before the law and, in particular, the effective enjoyment of their rights by groups who suffer structural inequalities or have been victims of historical exclusion processes.

*Hate speech:*

1. Guaranteeing that legislation to punish hate speech—inciting violence on discriminatory grounds—complies with Article 13.5 of the American Convention on Human Rights and with the principles and standards set by the Inter-American Court and the Inter-American Commission on Human Rights.

*With regard to impunity, the IACHR recommends:*

1. Granting continuity to public policies on memory, truth, comprehensive reparation and non-repetition mechanisms, in accordance with inter-American standards.
2. Creating an agency that can monitor the recommendations of the National Truth Commission and actions to strengthen the activities carried out by the Special Commission for persons who were killed or went missing for political reasons, especially activities conducted in the context of the Perus Working Group and the Araguaia Working Group.
3. Fully complying with the judgment of the Inter-American Court of Human Rights on cases including Gomes Lund (“Gerrilha do Araguaia”) and Vladimir Herzog.
4. Expanding the number of officials in state and federal Public Defender’s Offices, to increase their capacity to offer free legal assistance to the most vulnerable population sectors.

***Regarding democratic institutions and the role of auditing institutions, the IACHR recommends:***

1. Strengthening public institutions responsible for formulating, implementing and assessing public policies from a human rights perspective and which seek to protect the rights of the most vulnerable groups.
2. Strengthening the structure and budget of the Human Rights Defender Protection Program, to ensure the implementation of effective protection measures.
3. Refraining from passing legislation that reduces the effective enjoyment of human rights acknowledged by the Brazilian State in international treaties.

***Regarding indigenous peoples and communities, peasants and rural laborers, the IACHR recommends:***

1. Addressing the structural causes of disputes linked to the fight for land, by strengthening public policies aimed at agrarian reform and programs to prevent and address rural violence.
2. Ensuring that traditional Afro-descendant Quilombola peoples, indigenous peoples and peasants can use and enjoy the territory they have historically held, which implies granting them the relevant recognition, titles and demarcation through special procedures in which those groups are directly involved.
3. Executing and completing pending demarcation procedures, especially with respect to territories that are affected by massive projects and large-scale business activities.
4. Guaranteeing the right to prior, free and informed consultation with a view to obtaining consent, in compliance with inter-American standards on the issue and considering the characteristics, custom and usage of the relevant indigenous peoples and communities.
5. Ensuring full respect for and protection of the rights of indigenous peoples in voluntary isolation or initial contact, by setting up effective protection mechanisms to prevent and eradicate third-party access to the territories where those peoples are located. Further, the IACHR recommends strengthening cross-sector healthcare plans to contribute to overcoming the health problems affecting those peoples.
6. Ensuring that evictions are only carried out in compliance with international standards and regulations regarding human rights and the principles of exceptionality, legality, proportionality and suitability, with the ultimate goal of promoting social welfare and providing solutions to the evicted population.
7. Adopting specific legislation at the federal and state levels, to address internal displacement in accordance with the Guiding Principles on Internal Displacement, as well as taking measures to prevent displacement, protecting and assisting evicted persons during their displacement, providing and facilitating humanitarian assistance and facilitating lasting solutions.

8. Adopting concrete strategies and goals to drastically reduce the number of murders and violent crimes in this case and to monitor investigations and criminal proceedings against the perpetrators of violence in rural areas—particularly with respect to acts of violence against traditional Afro-descendant Quilombola peoples, indigenous peoples and peasants—with due diligence and with the aim of identifying and punishing anyone responsible and thus fighting impunity and preventing similar events from happening again in the future.
9. Strengthening programs to protect peasants who live in an atmosphere of rights violations, and constantly identifying situations that pose serious risks for those people’s lives and integrity.
10. Strengthening programs that respond to demands and enable faster solutions in conflicts that affect peasants and rural laborers.

***With regard to Afro-descendant persons and traditional Afro-descendant Quilombola peoples, the IACHR recommends:***

1. Taking any measures necessary to comprehensively review and reform the protocols and guidelines of local, state and federal institutions in charge of law enforcement, in order to guarantee that they comply with the international-law principles of equality and non-discrimination. In particular, this involves banning and explicitly punishing racial profiling and other explicitly or implicitly discriminatory practices based on race, gender, skin color, national background or other similar aspects.
2. Implementing federal legislation to demand adequate training for officers and institutions in charge of local law enforcement, such as justice operators (including judges, public prosecutors, public defenders and other judicial staff at the state and federal levels), on their human rights obligations regarding non-discrimination and avoiding implicit prejudice and other types of training to fight discrimination.
3. Guaranteeing adequate, quick and comprehensive reparation for all victims of police violence and their families, including financial support, medical and psychological assistance and measures to prevent re-victimization.

4. Regulating the right to prior consultation of Quilombola peoples, as established by Convention 169 of the International Labour Organization and by Inter-American Court of Human Rights jurisprudence, observing the *quilombos'* organization and decision-making processes even with regard to community consultation protocols.
5. Based on the free, prior and informed consultation of Quilombola communities, developing a national plan for land titling in Quilombola territories, including goals to structure the INCRA and gradual budget allocations, in keeping with inter-American standards and with Brazil's Constitution.
6. Guaranteeing comprehensive land titling in traditional Quilombola territories where it remains pending.
7. Adopting special policies and affirmative actions to ensure the enjoyment and exercise of the fundamental rights and liberties of persons and groups who are subjected to racism, racial discrimination or related forms of intolerance, to promote fair conditions involving equal opportunities, inclusion and progress for those persons and groups.
8. Ratifying the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention Against All Forms of Discrimination and Intolerance.

***As regards victims of forced labor or slave-like practices and victims of human trafficking, the IACHR recommends:***

1. Strengthening public policy for the eradication of slave labor, offering adequate resources for the operations of the Labor Ministry's Mobile Unit and regularly publishing records of employers who have been reported for exploiting slave labor ("black list").
2. Working to ensure the application of Article 149 of the Criminal Code, which sets a punishment for the crime of subjecting a person to slave-like conditions, and compliance with Article 243 of the Federal Constitution, which establishes that urban and rural property where such practices are exercised should be expropriated.

3. Strengthening preventive public policy to break up the cycle of contemporary slavery, promoting access to autonomous livelihoods and the socioeconomic integration of workers in their place of origin, as well as access to professional qualifications and finding new placements for rescued workers in the job market.
4. Strengthening programs that respond to demands and enable faster solutions in conflicts that affect peasants and rural laborers.

***As regards people who live in poverty, are homeless or live in favelas or disadvantaged suburbs, the IACHR recommends:***

1. Ensuring the adoption of public policies to address poverty that are comprehensive and cross-sectional and adopt a human rights focus with a gender and cross-sectional perspective.
2. Ensuring continuity and expanding the scope of the public policies the State is currently implementing to fight poverty and enforce social rights, introducing special programs that give priority to extreme poverty and to access to and enjoyment of the human rights—in accordance with international standards—of the poor, the homeless and people who live in *favelas*, particularly their rights to housing, water, food, healthcare and education.
3. Refraining from adopting policies, measures and legal regulations that are regressive in terms of economic, social, cultural and environmental rights (ESCER).
4. Reviewing all legislation, regulations, practices and public policies that imply differentiated treatment based on social conditions or that may have a discriminatory impact on people who live in poverty, are homeless or live in *favelas* or in disadvantaged suburbs.
5. Strengthening and creating mechanisms to promote active transparency and access to timely and adequate information within social policies and programs.

6. Taking measures to gather disaggregated statistical data about homeless persons, ensuring that the IBGE includes that aspect in its surveys.

***With regard to people in State custody, the IACHR recommends:***

*Persons deprived of their liberty:*

1. Taking any judicial, legislative, administrative and other measures necessary to reduce overcrowding and applying pretrial detention in accordance with the principles of exceptionality, legality, proportionality and necessity.
2. Promoting the application of alternatives to incarceration, with a gender perspective and differentiated approaches. In particular, the State must take any necessary action to effectively implement, in all states, the Constitutional Court's decision on house arrest with a gender perspective.
3. Establishing permanent review mechanisms for sentence enforcement, with a view to promoting the application of early release benefits.
4. Developing a drug policy with a comprehensive focus aimed at social reintegration, so that people who have been arrested for use or possession of drugs or who have committed minor crimes for their problematic drug use or dependence are not treated with a repressive, criminalizing focus, but rather from a public health perspective.
5. Ensuring a dignified treatment of persons under State custody, in accordance with the prevailing standards on deprivation of liberty and taking into consideration the special risks that may stem from gender and other aspects of the prison population.
6. Facilitating the necessary means for persons deprived of their liberty—including adolescents—to be able to file complaints or to report the treatment they receive in detention centers without suffering retaliation for doing so. Complaints need to be handled in a serious, expeditious and

effective manner, so they enable sanctions against anyone responsible. Details about the number of complaints and their results need to be public. Following allegations of ill-treatment or torture, Brazil must immediately launch an effective *ex officio* investigation of events, in compliance with the prevailing standards on the issue, to identify, try and punish anyone responsible.

7. Regarding the available mechanisms to prevent and fight torture, the State must take any measures necessary to increase their financial and human resources so they may function better. Further, the Brazilian federal State must promote the creation of such mechanisms in those states that still lack them.

*Socio-educational centers:*

1. Undertaking any actions necessary to ensure that detention-center facilities offer appropriate security, accommodation, education, healthcare and social reintegration. Adolescents need to be placed in facilities that allow them to maintain contact with their families and keep them separated from adult inmates and from convicts.

***With regard to migrants, asylum seekers and refugees, the IACHR recommends:***

1. Promoting open and transparent proceedings to regulate migration laws and to draft a National Policy on Migrants, Refugees and Stateless Persons, so they both comply with inter-American human rights principles, rules and standards.
2. Guaranteeing recognition of the refugee status of Venezuelans with a well-founded fear of facing persecution if they return to their country, or who consider that their lives, integrity or personal liberty are under threat over justified fears of facing persecution based on their race, religion, nationality, social background or political opinions, as well as on the context of violence, the serious and widespread human rights violations and the serious disturbances of law and order in Venezuela.
3. Ensuring that migrants and refugees have access to economic, social and cultural rights, including access to education, employment and social security on an equal, non-discriminatory footing.



4. Implementing positive measures to fight discrimination and xenophobia against migrants, including educational and awareness-raising campaigns aimed at promoting multicultural societies.
5. Identifying people who may be particularly vulnerable, with a differentiated focus that includes special protection. Specifically, the rights of migrants and asylum seekers who are homeless or belong to indigenous peoples, such as the Warao, need to be protected.
6. With regard to Venezuelan migration, guaranteeing that any domestic measures adopted comply with the recommendations of IACHR Resolution 2/18 on the Forced Migration of Venezuelans.

**With regard to public safety, the IACHR recommends:**

*Differentiated impact on people's safety:*

1. Implementing public policies to address institutional racism.
2. Designing public safety policies with the participation of the people and communities they seek to serve.
3. Strengthening a well-coordinated and comprehensive public response, within the Single Public Safety System created by the National Policy for Public Safety and Social Defense (which has recently been approved), to regulate and implement it.

*Violent deaths and an excessive use of force by police:*

1. Developing an efficient public safety system, prioritizing the reduction of the country's high homicide and violent-crime rates along with programs for the prevention of violence.

2. Developing a strategy to refine investigations and criminal proceedings against the perpetrators of violence, with due diligence and with the aim of identifying and punishing anyone responsible and thus fighting impunity and preventing similar events from happening again in the future.
3. Increasingly investing in the professionalization and training of state officials in charge of public safety, and improving their working conditions.
4. Strengthening formal control mechanisms (local magistrates, ombudspersons and inspections) with the capacity to conduct autonomous and transparent correction proceedings, in order to fight corruption, abuse and power struggles.

*The militarization of public safety policies:*

1. Adequately adapting legislation to guarantee that criminal proceedings where the defendant is a military officer be handled by ordinary courts—rather than military courts—to prevent impunity in cases of human rights violations.
2. Developing citizen-focused public safety policies that prevent as far as possible the use of the armed forces to control internal riots.

*Policies regarding drugs and the fight against organized crime:*

1. Developing, in a broad and participative way, a drug policy that is based on human rights, with a comprehensive approach aimed at social reintegration that adopts a public health perspective, with objective criteria to differentiate the possession of drugs for personal use from the possession of drugs for trafficking. Such a policy should not focus on repressive actions and criminalization.
2. Investing in actions to prevent drug use and promoting alternatives to incarceration for cases of people who have committed minor offenses as a consequence of their drug problem or dependence. Such alternatives should include outpatient treatment that avoids institutionalization

and enables the problem to be approached from a health and human rights perspective, with an adequate budget.

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