

OPEN LETTER OF THE UPR BRAZIL COALITION
About the Report of the Brazilian State for the 4th Cycle of the Universal Periodic Review

The Brazilian State Report for the Evaluation of the 4th Cycle of the Universal Periodic Review (UPR) presented by the Brazilian State to the United Nations published last week in August¹, on the eve of UN's pre-session, is far from mirroring the sad reality today, the dismantling and setbacks of human rights occurring in recent years in the country.

The Report was submitted to public consultation for a little more than a month, through the availability of the preliminary text and an electronic form that basically limited itself to issues by thematic blocks of the Report made available. For each block, there was a multiple choice question and an open question: the first required to choose whether the level of sufficiency of the thematic block was "Excellent, Good, Regular or Insufficient" and the open question requested "added comment or suggestion".

According to the Ministry of Women, Family and Human Rights, the consultation received only two contributions. This shows the inefficiency and the very low representativeness of the public consultation that was performed. Civil society challenges this framework as to the way it was done and the total lack of mobilization for participation, since there were no actions for it by the government. It was non-compliant in the "pro forma" role.

The Final Report refers to the Mid-Term National Report, presented in 2019. However, we must bear in mind that since 2019 we have lived daily with an event of high relevance and impact, the Covid-19 pandemic. In this context, and which, because of its importance, would merit much greater attention than one or other mention - the UPR Brazil Coalition elaborated and published in 2020, the Report "Universal Periodic Review of Human Rights in the Context of Covid-19"² specifically considering this reality.

The Brazilian State repeats in the Report what was the tone of its action in this context: denialism, delay and the lack of protection of the population, the attacks and the dismantling of human rights policies. Most of the themes are superficially treated and without adequate contextualization and, even less, with in-depth analysis capable of identifying difficulties, challenges or aspects to be qualified. Strictly speaking it seems to be yet another account of achievements (which even if they seem to be great and sufficient, they are not). There are whole themes at risk, such as the issue of male and female human rights defenders. The quality of the information provided, given the complexity of the

¹ Click here to access the official document:

https://www.gov.br/mdh/pt-br/navegue-por-temas/atuacao-internacional/relatorios-internacionais-1/RPU_IV_Ciclo_Versao_Final_Portugues_DEFESO.pdf

² Click here to access the Report: <<https://plataformarpu.org.br/publicacoes>>

themes, is at least insufficient. The report does not provide the conditions for dealing with human rights with the universality, interdependence and indivisibility that is necessary in the context of the UPR.

The 2022 Civil Society Report, coordinated by the UPR Brazil Coalition³, points out that the absolute majority of the recommendations of the previous evaluative cycle were not compliant or presented setbacks. Considering this scenario, Brazil is expected to receive new recommendations in this 4th cycle, in addition to the emphasis of complying with those that have not been met or were identified as a setback in previous cycles.

With regard to the specific thematic blocks, they follow observations on what was presented in the State's Final Report.

Brazil is a sick country. The public health system, although beautiful in word, has many gaps, infrastructure difficulties, trained personnel and, especially after the approval of the Spending Cap (Constitutional Amendment no. 95/2016), has taken a backward step concerning the level of funding that existed at the time of its implementation. The Brazilian population is most affected by chronic non-communicable diseases (NCDs), because of the poor food and nutrition spread erroneously since childhood, which favor oligopolies in the food sector and burden the health system when they reach the fourth decade of life. Reproductive health rights are being dismantled, with health professionals who use prejudice to refuse basic humanized services primarily to women and girls. Cardiovascular diseases have increased, as has the consistent increase in infectious diseases such as HIV and AIDS, dengue and chikungunya, not to mention the high exposure of people to the Covid-19 pandemic that in Brazil was treated irresponsibly by the Federal Executive and genocidist in relation to specific populations, such as quilombolas and indigenous populations. Mental health problems have exploded, as have the expansion of various acts of violence against women and girls, people with disabilities, the elderly and the LGBTQIA+ population. Brazil is in an accelerated setback in the health sector, increasing the vulnerability of the poorest sections of the population, but not restricted to this, because it affects all social classes, especially in the growth of institutional violence against women and in the exponential increase of NCDs. Thus, these and other issues should be part of the analysis of the Brazilian State Report to fulfill its commitment to complying with the human right to health.

Actions to promote gender equality, race and sexual diversity require an intersectional reading of the recommendations, not being limited to a thematic report. Since 2016, the organization of the public human rights policy has changed in Brazil, not only in terms of its nomenclature, but in terms of its proposal and rights. As for fighting the violence against women, the proposal was centered on the family, in detriment of a gender policy and human rights perspective. There is a scenario of dismantling of the public policies for women

³ The UPR Brazil Coalition Reports in both Portuguese and English are available here: <https://plataformarpu.org.br/publicacoes>

due to moralizing the social issue and disrespecting the human rights of women and girls in a regressive, micro political scenario that promotes violence against cis, trans, black, indigenous, and poor women.

The Report has, in one of its headings, a reference to male and female human rights defenders, but there is not even an annotation in the text. In other words, it is as if in the last three years, coincidentally those in which the current government has been at the head of the Executive power, there was nothing to report on the situation of male and female human rights defenders. In fact, in this period, the situations that made the working environment of civil society worse were aggravated, in which the spaces of participation and social control were closed or controlled. Although there have been changes in the Program for the Protection of Human Rights Defenders (PPDHR), the fact is that the Brazilian State is far short of meeting the needs of protection and, more than that, of acting to prevent risk factors and threats from putting at risk the actions of male and female human rights defenders.

Over time, the Brazilian State has encountered serious difficulties in ensuring poverty reduction and combating the inequalities of the vulnerable population living in the country. However, in the last period this framework has worsened. This is because, of the 15 recommendations evaluated, none were met and of those, 9 are in setback, that is, besides not guaranteeing human law, the Brazilian State is in setback in public policies. This is what is seen when an analysis is made of all governmental actions concerning recommendations 30, which deals with the legal and institutional strengthening to promote human rights and reduce poverty and promote social equality; 134, which addresses the rise in the sustainable socioeconomic standard of life of the population; 141, 143 and 144, which deal with measures to tackle poverty and economic inequality; and recommendation 148, which deals with the security system of vulnerable groups. All these recommendations were not complied with by the Brazilian State because of government actions of budget suppression and cut-off and public disinvestment, actions that made access to data and social control difficult, which aggravated the general picture of income inequality. An Example of this is the 2034 Program, Promotion of Racial Equality and Suppression of Racism, which suffered a decrease of 80% of their spending between 2014 and 2019, going from R\$ 80.4 million to R\$ 15.3 million, as a result of Constitutional Amendment no. 95/2016. In 2019, the budget decrease of this program was 45.7% in comparison to the previous year.

In addition, the Brazilian State has not fulfilled and has retreated in complying with its international human rights obligations. This is evident when we see the non-compliance and the setback in compliance with recommendation 135, which deals with the Family Grant Program, recommendation 136, which deals with public policies on housing for low-income families, recommendation 137, which deals with adequate housing, recommendation 138, on measures to protect children's rights, recommendations 145, 146 and 147, which deal with the national plan for basic

sanitation and recommendations 50 and 140 on the Sustainable Development Goals. The UPR Brazil Coalition noted that hunger has increased in the last year, along with inflation, which fell heavily on food items, while there has been little or no effort by the government to reverse this situation. There was also a significant increase in the Brazilian housing deficit and the end of public housing policies for poor families, which make up 90% of this deficit. According to data from Fundação João Pinheiro (Foundation), in 2019, the housing deficit in the whole of Brazil was of 5.8 million homes, of which 79% are concentrated in low-income families. In the case of housing, measures are tragic for the low-income population. The lines for production of popular housing were cut by more than 2 billion, or 81% of the approved resources. This means that no works will be started, no works will be resumed and works in more than 200 thousand homes that are in progress will be stopped. Also, data from the Zero Eviction Campaign in Defense of Life in the city and the countryside indicate that approximately 32 thousand families were evicted from their homes during the pandemic and that today around 142 thousand families are threatened with evictions.

In the 3rd cycle of the UPR, the country received 34 recommendations that directly and indirectly addressed concerns about the situation of indigenous peoples and the environment. These recommendations pointed to the need for Brazil to advance in promoting and respecting indigenous rights, to continue with the demarcation of indigenous lands, the prevention of racism and discrimination, the protection of indigenous leaders, the obligation to conduct prior consultations, the promotion of indigenous health, child mortality, food and sanitation in villages and implementation of the climate policy and reduction of deforestation. Not only have these recommendations not been complied with, but most of them were a setback during the Bolsonaro government, with the paralysis of the demarcation of the territories, the extinction of collegiate social participation, legislative initiatives to disfigure indigenous constitutional rights, relaxation of environmental legislation and spread of racist and prejudiced speeches against indigenous peoples by government authorities. Not addressing any of the recommendations, the report that the government will bring to the UN brings the information that an online course on the “indigenous agenda” has been held, it has distributed “more than 400 food staple baskets to indigenous and quilombola families” and has prioritized indigenous peoples in the late Covid-19 vaccination campaign. The contempt with which the Bolsonaro government has treated the indigenous peoples and sought to open their territories to the predatory exploitation of natural resources is thus being exposed in these brief indications that point to the destructuring of the country's indigenous and environmental policy in recent years, in contrast to the international commitments assumed by the Brazilian State.

The prison system, public security and torture are problems we have faced in the Brazilian society for a long time. They affect, above all, the black, poor and resident population on the outskirts and in the shantytowns of our

country. In this way, it explains the racism that is rooted in our society. We are the 3rd country in the world that imprisons the most, revealing a populist and ineffective criminal policy that imprisons much and is disorderly, and does not offer decent conditions in prisons, with poor access to health, work, and education. Torture is a mark, a method of public security policy and of the Brazilian prison system that deepens the structural conditions of a society that relates in a colonial way with violence and torture as part of the repressive structures of the State. In public security, Brazil continues as one of the ten most insecure and violent countries in the world, revealing that the war on drugs and the supposed fight against drug trafficking is more focused on repression, the strengthening of police forces and the easing of gun control for the population. This fact in itself does not resolve the problem, but also aggravates the situation of violence in our country. It is in this context that the UPR Brazil Coalition report on this theme reveals the collapse of the Brazilian State to provide answers to the recommendations accepted by Brazil in the last cycle of the UPR. Forty of the 43 recommendations of this theme are in setback and only three were partially met. The weakening of constitutional guarantees deepens the selectivity and institutional racism of the Brazilian criminal justice system.

The history of the Brazilian State regarding international obligations and commitments (pacts, conventions, protocols, etc.) in the field of human rights is very positive. The big problem is that these commitments and the obligations they entail do not become effective policies and rights for the general population, especially for those groups that historically suffer human rights violations in Brazil. This is so true that if an analysis is made of the recommendations received by the Brazilian State in the third cycle of the UPR (total of 242 accepted), which call attention and stimulate the State to move forward in several areas of rights and with several groups, in order to assess at the end of this third cycle that Brazil unfortunately does not prioritize, it does not progress, and in many cases it retreats and therefore fails to fulfill its obligations and commitments. The analyses by the UPR Brazil Coalition indicate a very serious situation, pointing out that almost half (46%) of all the recommendations, besides not being put into practice, are in setback. By adding up to one third (35%) of the constantly pending items, 80% of them are not being implemented. Only 17% of the recommendations are being partially implemented and only one has been implemented.

In addition, the Brazilian State brings in its Report an approach that needs to be developed on important issues raised by the recommendations in the last cycle. Some sections do not reflect their content: this is the case of "Migrants, Refugees, Fight Against Human Trafficking and Human Rights Defenders." Although it covers three distinct themes in this section, the government focuses only on actions aimed at fighting against human trafficking, mostly carried out within the framework of the National Council of Justice (CNJ). On migration and refuge, it does not present any activities in relation to the

implementation of the Migration Law (Federal Law no. 13.445/2017), resettlement policies for refugees, or the elaboration of a National Integration Plan, as per the commitment made. Moreover, it does not indicate any commitment to the ratification of the UN Convention on the Protection of All Migrant Workers and Members of their Families, which is the subject of no less than seven recommendations.

Also on the aspect of obligations and commitments to Human Rights, it should be made clear that in the latter period, despite its positive history, the country, in particular in the figure of the executive, has advocated retrograde and conservative attitudes to human rights and has been internationally aligned with authoritarian countries and with little or no tradition of respect for human rights. The current government has been committed to the destructuring and emptying of social participation spaces and has been interfering in its autonomy, which is very serious in the construction and evaluation of human rights policies in the country, and which puts democracy at risk and in check, a compromise without which it is not possible to imagine the realization of human rights.

On the subject of human rights and companies, the actions carried out in the State of Minas Gerais to ensure the complete compensation to those affected by the disruptions of the dams of Mariana and Brumadinho are progressing slowly, as well as the criminal proceedings that remain in impunity, six years after Mariana and three years after Brumadinho. In addition, in 2021, the government of Minas Gerais, the Vale S.A. mining company and the justice institutions signed an agreement concerning the part of compensating the victims of the damage caused by the rupture of the mining dam in Brumadinho, without the participation of those affected. Negotiations were conducted under the principle of confidentiality, preventing the communities affected and Independent Technical Advice (ITAs), which represent the interests of these communities, from having access to the terms of the agreement and participation in the negotiations. The victims of Mariana are still waiting for the construction of their houses by the company, and the first deadline informed by the Renova Foundation has not been met. Draft Law no. 2788/2019, which establishes the National Policy of Rights for the Populations Affected by Dams, is an initiative of the legislative authority, presented from the External Committee of Brumadinho of the Chamber of Deputies, created to monitor investigations into the rupture of the dam. The text was approved in the Chamber of Deputies in 2019 and is currently awaiting analysis by the Federal Senate, but it has been suffering great resistance from companies and the government, which are trying at all costs to deplete the text, compromising its implementation, even if it is approved. The proposal was built on dialog with several civil society organizations, which understands this project as a milestone, essential for the guarantee of rights for the people affected by dams, not allowing them to be left to the fate of companies, as in the cases described above, among others.

The agenda of adequate funding and follow-up to the legal framework for education is also abandoned. The National Education Plan (PNE) has been progressively replaced by a series of public policies that go in the opposite direction, imposing austerity policies and reducing the role of the State, as discriminatory, excluding, of censorship, and the emptying of schools as a living, democratic, transforming and free place. In the context of the irresponsible conduct of the health crisis, which aggravates and prolongs its effects, compliance with the PNE becomes an even more distant goal in view of the lack of adequate priorities in government and budgetary guidelines. If this trend continues, we will reach 2024, the end of the Plan, with only 15% of the provisions of its goals met. In the official report of the Brazilian government, there is no mention of the National Education Plan or any public education policy, except for the agenda related to the National Program of Education in Human Rights. However, human rights education policies (EDH) are not being implemented. The federal government has decreed the end of the Department for Continuing Education, Literacy, Diversity and Inclusion (SECIDA/MEC) and there have been no actions in schools to face racism and sexism in recent years. In non-formal education, the National Committee on Human Rights Education (CNEDH), created together with the National Plan for EDH in 2003, pioneer in Latin America, was extinguished

The scenario shown concerning children and adolescents does engage with the Brazilian reality. Contrary to what the report presents, the defense, protection and promotion of the rights of children and adolescents are not priorities. As far as public policies, programs and actions are concerned, defunding and low budget execution have predominated since 2019. Considering that public policies aimed at childhood and adolescence are inter-sectoral, the budget cuts implemented in education, social assistance, labor and health surveillance, together with increased poverty, extreme poverty, social exclusion and food insecurity, they place children and adolescents in a situation of social vulnerability and increase the violence to which they are exposed, such as child labor, school exclusion and sexual violence against children and adolescents, which increased during the pandemic. It is important to highlight that the Brazilian discourse that children and adolescents are subject to rights repeatedly reaffirming, in practice, is not reflected in the actions of the Brazilian government and in the public budget.

Brazilian civil society understands that commitments to human rights are, in fact, the responsibility of the State, but not only of the Executive Power, so it welcomes the involvement of other powers. It also believes that the participation and direct involvement of civil society is also part of the State's commitments, but goes beyond it, since human rights are, above all, the assets of the whole of society. It is for this reason that it is engaged in this debate, fulfilling its responsibility to alert the international community about urgencies regarding human rights in Brazil.



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