



*MISSION PERMANENTE DU BRESIL AUPRES DE L'OFFICE DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS INTERNATIONALES A GENEVE
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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honor to refer to the letter AL BRA 9/22, dated 27 June 2022, from the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Chair of the Working Group on People of African Descent.

The Permanent Mission of Brazil in Geneva would like to forward the attached observations of the Government of Brazil regarding the aforementioned letter.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 6th September, 2022.

*To the Office of the United Nations High Commissioner for Human Rights (OHCHR)
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ANNEX

COMMENTS FROM THE GOVERNMENT OF BRAZIL REGARDING LETTER AL BRA 09/22 (06/27/2022)

The Brazilian government refers to the Letter AL BRA 9/2022, which requests information by three special procedures mandate holders regarding the alleged excessive use of force by police officers, in particular against Afro-descendent persons, in the episodes of the police operation in Favela Cruzeiro (24/5/2022) and the death of Genivaldo de Jesus Santos (25/5/2022).

The Brazilian government sympathizes with the families involved in the aforementioned events and reaffirms its commitment to respect international standards for the defense and protection of human rights and the repudiation to acts of human rights violations.

The Brazilian government regrets the deaths that occurred during the police operation conducted in Vila Cruzeiro, as well as the death of Mr. Genivaldo de Jesus Santos. In this context, the government clarifies that the competent state and federal authorities are monitoring the investigation of the incidents, to ensure that it is conducted independently and impartially.

The Ministry of Justice and Public Security and the Attorney General's Office of Rio de Janeiro established a criminal investigative procedure to determine the facts regarding the deaths in Vila Cruzeiro, having requested information from the authorities involved in the situation, including the names of police officers responsible for the deaths.

The Police Operation in the Vila Cruzeiro Favela in Penha was jointly carried out by the Military Police of Rio de Janeiro (PMERJ) and the Federal Highway Police (PRF), planned for months and triggered in emergency circumstances, in the context of the alleged movement of traffickers to other regions of the city of Rio de Janeiro.

Investigations into the deaths that occurred in the Operation are in charge of the General Homicide Department and Protection of the Person (DGHPP), under the Secretary of State of the Civil Police of Rio de Janeiro (SEPOL), an agency which acts efficiently, promptly and impartially, based on the primacy of technicality in investigative processes.

After the operation, the following police inquiries were installed and are in progress, under the presidency of the Police Authority Assistant at the Capital Homicide Police Station/DHC: 901-00429/2022, 901-00441/2022, 901/00449/2022, 901-00450/2022 and 901/00451/22, to determine authorship and circumstances of the deaths.

The necropsies were performed by the General Department of Technical-Scientific Police (DGPTC), of the state of Rio de Janeiro, where the investigations were carried out, in compliance with strict technical protocols.

Brazil does not condone any action or omission aimed at violating human rights, including any type of discrimination based on race, skin color, sexual orientation, national origin or ethnicity.

In the General Department of Specialized Police of the Rio de Janeiro, there is the Police Station for Racial Crimes and Offenses of Intolerance/DECRADI, which aims to combat crimes of racism, homophobia, prejudice, religious intolerance of any kind, including against African-based religions. Crimes of racism practiced against ethnic-racial groups are rigorously fought by our public agents.

Rio de Janeiro also has the Special Police Service and Protection for the Elderly (DEAPTI), which aims to combat crimes against persons older than 60 years old, provided for in the Elderly Statute, in addition to making requests for protective measures in cases of domestic violence and violation of these rights.

The Brazilian government reiterates its commitment to the fight against organized crime, drug trafficking and other illicit activities, with due care for the protection of the human rights of each individual. Our objective is to protect the lives of all, with special attention to those who are most vulnerable to suffering damages resulting from criminal practices.

Regarding the death of Mr. Genivaldo de Jesus Santos, the Federal Highway Police issued a statement in which it is emphasized that the approach taken by the police officers in the situation was not in line with the internal guidelines of the institution. Those involved in death of Mr. Santos are the subject of disciplinary proceedings, having been removed from their activities.

The case is also being monitored by the Office of the General Prosecutor of the Republic, which instituted a criminal investigation, which proceeds in secrecy, as determines the Criminal Procedure Code, Art. 20, in order to preserve investigations.

The Brazilian government, through the National Secretariat of Public Security, with the aim of developing public security policies, has participated in important actions in the fight against violent crime and social protection. Those include the National Policy for Public Security and Social Security (PNSPDS), created by Law No. 13.675, of 11 June 2018 and amended by Law No. 14.330, of 4 May 2022, and with the National Public Security Plan and Social Defense 2021 - 2030 (PNSP), instituted by Decree No. 10.822, of September 28, 2021.

The National Plan for Public Security and Social Security 2021 - 2030 (PNSP), established by Decree No. 10.822, of September 28, 2021, includes strategic actions and highlights in Goal 1: Reduce the national homicide rate to below 16 deaths per 100 thousand inhabitants by 2030 in line with objectives of the National Public Security Policy and Social Security related to the goal (art. 6 of Law no. 13.675, of June 11, 2018), as follows:

IV - encourage and support the carrying out of actions of prevention of violence and crime, with priority for those related to the lethality of the young black population, women and other vulnerable groups;

XVII - promote permanent actions to combat organized crime and corruption;

XXIII - prioritize policies to reduce lethal violence;

XXIV - strengthen the investigation mechanisms of heinous crimes and homicides;

XXV - strengthen the actions of inspection of fire weapons and ammunition, with a view to reducing violence.

Thus, through Strategic Action 02 of the PNSP, it is intended the development and support to the "implementation of programs and projects that favor the execution of preventive and repressive actions articulated with other sectors, public and private, to reduce crimes and social conflicts", specifically focusing on standardized performance of public security agencies and social security.

In line with PNSP/MJSP, on March 8, 2022, a public call was issued, which will allocate R\$ 10 million to finance projects aimed at preventing violence against women, children, adolescents and the elderly. The goal is to select state and municipal projects aimed at the prevention of violence and crime against these vulnerable groups. Good practice work should be developed and presented by the Military Police, Civil Police, Military Firefighters and Municipal Guards from all over the country. Funding will be granted by the National Fund of Public Security.

In this context, the General Coordination for the Prevention of Violence and Crime develops programs and projects related to prevention policies in public security, especially oriented to the social integration to promote participatory management in public security; to the implementation of preventive police models; and to vulnerable groups subject to violence.

Brazil has regulation on the progressive use of force, as Law nº 13.060, of December 22, 2014, which "disciplines the use of instruments of minor offensive potential by public security agents, throughout the national territory" and establishes guidelines for the rational use of force by agents of public security throughout the national territory. The law disciplines the use of force by the police and other public agents applied to public safety, protection of the agent and third parties, as a basic requirement for the effective compliance with legal powers assigned to public security agents.

In addition, Interministerial Ordinance No. 4,226, of December 31, 2010, establishes guidelines on the use of force by public security agents.

On an ongoing basis, the Brazilian government, through the Federal Police has sought to improve the public security service to the Brazilian society, participating in forums and collegiate bodies

for the defense of human rights, such as the National Human Rights Council. In that sense, administrative spaces are dedicated to the defense of human rights, such as the following units: Division of Human Rights - DDH/CGMADH; General Coordination of Repression of Crimes against the Environment and Human Rights - CGMADH/DICOR/PF; Service of Repression to Hate Crimes and Child Pornography - SERCOPI/DRCC/CGFAZ/DICOR/PF, among others.

In the National Police Academy (ANP, in Portuguese), of the Federal Police, there are training courses in Human Rights and Ethics, in addition to the selective use of force. Training programs also take into consideration the combat against racial discrimination, in line with international conventions and commitments.

The Federal Police maintains educational policies aimed at complying with legal framework and guidelines arising from the various international agreements (particularly those focused on Human Rights) of which the Brazil is a signatory. Courses include doctrine of the selective use of force, relevant Brazilian and international legislation, the levels of resistance and strength to be employed, as well as the instruments of minor offensive potential and the techniques for using them.

In this sense, the discipline ‘Less Lethal Operations’ is also taught in several courses promoted by the ANP such as, for example, in Intervention Techniques Courses, Crisis Management and Negotiation Tactical Operations, among others. The discipline encompasses the doctrine on “the selective use of force”, and theory and practices related to “instruments of minor offensive potential”. The ANP offers all federal police employees the “Electronic Control Device Course – Taser X26”, in distance learning and presentially. Today, the FP has more than a thousand servers enabled to use such equipment.

In addition, SEOP is developing another course entitled “Specific Use of Force”, to be instituted in the near future. The objective will be to deepen the knowledge of federal police officers not only in theory of the Selective Use of Force but also in the use of various Instruments of Minor Offensive Potential, so as to avoid as much as possible deaths in operations.

The Planning and Evaluation Service of the National Police Academy made available two tables that show the courses that cover the Human Rights and the number of students per year. The first table presented below shows the amount of students enrolled in the Human Rights discipline, in Vocational Training Courses, in which has been applied “Human Rights Didatic Notebook”, and the second table presents the number of students of training courses related to Human Rights and Ethics:

- LVI Professional Training Course for Federal Police Agent (2019): 214 students
- XXXVI Professional Training Course for Delegates of Federal Police (2019): 172 students

- XXXIX Professional Training Course for Registrar of Federal Police (2019): 82 students
- XXXIV Expert Federal Criminal Professional Training Course (2019): 62 students
- XVII Professional Training Course for Federal Police Papilloscopist (2019): 28 students
- LVII Professional Training Course for Federal Police Agent (2020): 218 students
- XXXVII Professional Training Course for Delegates of Federal Police (2020): 184 students
- XL Professional Federal Police Clerk's Training Course (2020): 72 students
- XXXV Expert Federal Criminal Professional Training Course (2020): 102 students
- XVIII Professional Training Course for Federal Police Papilloscopist (2020): 17 students
- LVIII Professional Training Course for Security Federal Police Agent (2021): 671 students

TOTAL: 1,819 students

- LVIII Professional Training Course for Federal Police Agent (2021): 671 students
- XLI Professional Training Course for Registrar of Federal Police (2022): 408 students
- XIX Professional Training Course for Federal Police Papilloscopists (2022): 88 students

TOTAL: 1,167 students

In addition, it has been considered, in cooperation with the Division to Combat Human Rights Crimes, an educational plan, in e-learning format, to promote training and capacity building to Federal Police officers, specifically in relation to the LGBTI theme. In that same direction, this plan can inspire other programs aimed at training and capacity building related to the combat of racial discrimination, in accordance with the international commitments and standards, including the Durban Declaration and Program of Action and the CERD's General Recommendation 31 on the Prevention of Racial Discrimination.

Finally, the Service for the Repression of Hate Crimes and Child pornography clarifies the role of the Federal Police in "hate crimes" before the Brazilian legal system. Ordinary legislation defines the crimes resulting from prejudice/discrimination through Law No. 7,716, of 01/05/1989. The art. 20 of said Law provides as a typical figure, punished with imprisonment of one to three years and a fine, the conduct of practicing, inducing or inciting discrimination or prejudice related to race, color, religion, national origin and ethnicity. These conducts are qualified if practiced through the means of media or publication of any kind (art. 20, §2 - imprisonment from two to five years and fine), which greatly increases the spectrum of its reach, enhancing the violation of the protected legal good.

The term "hate crime" encompasses crimes that in any way denote discriminatory speeches or intolerance against a collectivity, making references to specific elements of race, color, religion, national origin and ethnicity, in such a way that offend human dignity, and not only particular individual. Furthermore, the homophobic and transphobic conducts, real or alleged, that involve hateful aversion to sexual orientation or gender identity, as they translate expressions of racism, understood in its social dimension, are included in art. 20 of the Law 7,716/89.

On December 17, 2020, the Chamber of Deputies established the Commission of Jurists to evaluate and propose normative strategies with a view to improvement of legislation to combat structural and institutional racism in the country, whose report can be found at the following link: <https://www2.camara.leg.br/atividade-legislativa/comissoes/working-groups/56th-legislature/ju-commissionrists-combat-racism-in-brazil/documents/others-documents/final-report>.

Within the scope of the Executive Branch, the National Secretariat of Policies for the Promotion of Racial Equality (SNPIR) of the Ministry of Women, Family and Human Rights has been maintaining communication and articulating with bodies such as the Ministry of Justice and the Public Security, responsible for the performance of law enforcement officers, as well as with Public Ministry, which includes bodies responsible for controlling police activity. As a result, the aforementioned bodies have been implementing the following actions, which seek to reduce prejudice and discrimination against the Afro-descendant population in different areas and, in this special case, between public security agents:

- Project "Public Security in the Promotion of Racial Equality": Technical Cooperation Agreement, signed with the Department of Management and Education in Public Security (SEGEN), of the Ministry of Justice and Public Security (MJSP), for the implementation of the project whose object is to teach and research about the promotion of racial equality and the fight against racism, through symposia, seminars, webinars, publications and research on the topic of public security policy and the promotion of ethnic-racial equality aiming at capacity building and specialization of the Public Security System professionals (SUSP);
- Project "Race/Color in the Prison System: respect and access to rights": Technical Cooperation Agreement signed between the Ministry of Women, Family and Human Rights (MMFDH),

through the SNPIR, and the Ministry of Justice and Public Security (MJSP), through the National Penitentiary Department (DEPEN), whose object is the implementation of the Project "Race/Color in the Prison System: respect and access to rights", to train servants working in the penitentiary system through the educational platform of the DEPEN, with the aim to encourage and qualify actions and activities that promote ethnic-racial equality within the national penitentiary system;

- Technical Cooperation Agreement signed with the Public Ministry of Mato Grosso do Sul for the implementation of joint actions to combat racism and ethnic-racial discrimination, to protect young victims of violence and provide external control to police activity;

- Publication of the booklet "Ethnic-Racial Discrimination, know your rights" (Annex I) and reprint of the Racial Equality Statute (Annex II), both for free distribution.

The course "Ethnic-Racial Policies: concepts and methods in overcoming racism and inequalities" (available at the link: <https://www.escolavirtual.gov.br/curso/417#:~:text=O%20course%20was%20developed%20in,from%20racism%20and%20from%20racial%20inequalities>).

Finally, it should be noted that the MMFDH has a National Ombudsman for Human Rights - DISQUE 100, through which it is possible to denounce different forms of violence and human rights violations.