

RIGHTS OF PEOPLE OF AFRICAN DESCENT, COMBATING RACISM AND THE RIGHTS OF QUILOMBOLA COMMUNITIES

PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW*

18 recommendations received by Brazil regarding the third UPR cycle (2017-2021)

2 ↑ in progress
9 ↓ in retrogression
7 ✗ not fulfilled

VIOLENCE AGAINST WOMEN OF AFRICAN DESCENT IN BRAZIL



Points to consider

- In regards to intentional bodily injury, it is possible that more cases were reported to the justice system;
- The classification of homicides as “femicide” still varies between the states of the federation;
- It is possible that there was an increase in registered cases of violence against women.

* The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our human rights situation. It is a partnership between the House of Representatives and the United Nations in Brazil (UN Brazil)

¹ FÓRUM BRASILEIRO DE SEGURANÇA PÚBLICA (BRAZILIAN FORUM OF PUBLIC SECURITY). **Anuário Brasileiro de Segurança Pública 2018 (Brazilian Public Security Yearbook 2018)**. Available at: <https://forumseguranca.org.br/wp-content/uploads/2019/03/Anuario-Brasileiro-de-Seguranca-CC%A7a-Pu%81b-CClica-2018.pdf>. Accessed on: 09/12/2022.

² Fórum Brasileiro de Segurança Pública (Brazilian Forum of Public Security). **Brazilian Public Security Yearbook 2022**. FBSP, 2022. Available at: <https://forumseguranca.org.br/wp-content/uploads/2022/06/anuario-2022-v03.pdf>. Accessed on: 06/29/2022.

Decree No. 8.086/2013
Women living without Violence Programme

“Integrate and expand existing public services focused on women in situations of violence, through the articulation of specialized services in the field of health, justice, public security, social assistance network and the promotion of financial autonomy.”

Decree No. 10.112/2019
Safe and Secure Women Programme

- Changes in the name of the programme;
- Suppression of gender mainstreaming in public policies;
- An imposed burdensome list of actions, as opposed to the exemplary list of the previous decree;
- Infra-legal expansion of the scope of services of the Casa da Mulher Brasileira



None of the decrees make any reference to a perspective focused on women of African descent.



Budget of Casas da Mulher Brasileira (Brazilian Women's House)

Main action of the Safe and Secure Women Programme

2019

No resources were executed – although R\$22.73 million were authorized

2020

Executed R\$308 thousand of R\$71.7 million available

2021

Executed R\$1 million out of the R\$21.84 million authorized



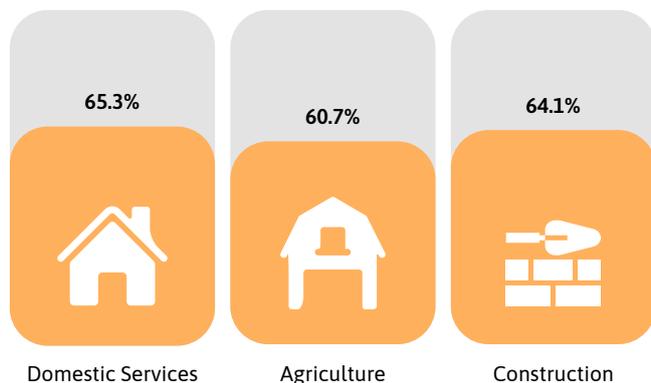
According to the Ministry of Women, Family and Human Rights, the programme does not have only financial resource allocation, which would raise the levels of effective resources implemented. However, the agency does not explain the great difference between the amounts authorized specifically for the Brazilian Women's Houses and the actually executed amounts.⁴

³ Inesc. **A conta do desmonte – Balanço do Orçamento Geral da União 2021**. INESC, 2022. Available at: <https://www.inesc.org.br/wp-content/uploads/2022/04/BalancoOrçamento2021-Inesc-1.pdf>. Accessed on: 9/15/2022.

⁴ Response to Ric 66/22, available at: https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra;jsessionid=node0vmav5wohdtwu1svxx9tzixp3z12408541.node0?codteor=2158943&filename=Tramitacao-RIC+66/2022. Accessed on: 9/15/2022.

WORK AND INCOME FOR PEOPLE OF AFRICAN DESCENT IN BRAZIL

Presence of people of African descent



Activities with below-average income throughout all the years in the historical series

63% of paid domestic workers are of African descent

In 2020, white people employed earned, on average, 73.3% more than people of African descent.



- There are no specific policies promoted by the Ministry of Labour and Social Security for the inclusion of black people in general, and more specifically, for black women in the labour market.⁵
- There is no specific racial perspective in the programmes for income transfer and productive inclusion from the Ministry of Citizenship.⁶

Law No. 12.990/2014

It reserves 20% of the vacancies offered in federal public tenders of the federal public administration, directly and indirectly, to black people, whenever the number of vacancies is equal to or greater than 3.

However

This law expires in 2024 and, so far, neither the federal government nor the National Congress have committed to its renewal.

⁵ <https://www.gov.br/trabalho-e-previdencia/pt-br>. Accessed on: 9/15/2022.

⁶ <https://www.gov.br/cidadania/pt-br/acoes-e-programas>. Accessed on: 9/15/2022.

RACIAL INEQUALITIES IN EDUCATION⁷

Access of children of African descent to daycare centers



Very distant from the National Education Plan (PNE) goal



That at least 50% of children from 0 to 3 years old are attending school by 2024

Number of adolescents of African descent (15 to 17 years old) attending high school or who have completed basic education

BETWEEN 2017 AND 2021



↑ Increased from **64,7%** to **70,9%**

BETWEEN 2020 AND 2021



↓ **2%** Decline



The inclusion of white people in the same age group is 79.1%, although still below the 85% target expected to be met by 2024.

Ratio between the average schooling of black people and non-black people remains unequal



It has changed little between 2017 and 2022, from 89.2% to 91.1%

⁷ Brazil. INEP – Anísio Teixeira National Institute for Educational Studies and Research. **Reporto n the 4° monitoring cycle of the goals of the National Plan of Education**. Brasília: Anísio Teixeira National Institute for Educational Studies and Research, 2022. Available at: https://download.inep.gov.br/publicacoes/institucionais/plano_nacional_de_educacao/relatorio_do_quarto_ciclo_de_monitoramento_das_metas_do_plano_nacional_de_educacao.pdf. Accessed on: 9/16/2022.

Fund for Maintenance and Development of Basic Education and Promotion of Education Professionals (Fundeb)

Law No. 14.113/2020

Establishes an increase in the Union's complementation to state and municipal education funds (from 10% to 23%).

Establishes a complement for systems that present improvement in indicators on reduction of socioeconomic and racial educational inequalities.

Law No. 13.935/2019

Provides for psychological services to be offered in public basic education systems.

No further information on the implementation of this legislation was found.

Law No. 12.711/2012

Established that at least 50% of vacancies in federal public universities, by course and shift, be reserved for students who attended high school in public schools and, within this quota, those who self-declare as of African descent ("pretos" and "pardos") and indigenous students, in proportion to their representativeness in a given state of the Federation.

Starting in 2016, with a legislative reform, people with disabilities also started to be included, according to the same criterion.



POLICIES FOR HIGHER EDUCATION AND POSTGRADUATE STUDIES



The reference values for offering scholarships are outdated and penalize the poorest students, and at the same time, there are few voluntary resources available to tackle this issue.

⁸ Venturini, Anna Carolina. Affirmative action in academic postgraduate programmes in public universities (jan/2002 a jan/2018). **Mapping of affirmative action policies (Gema)**, IESP-UERJ, 2019.

⁹ BRAZIL. CMAP. **Evaluation report: federal universities system**. CMAP, 2022. Available at: <https://www.gov.br/economia/pt-br/aces-so-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmap/politicas/2021/gastos-diretos/rfu-relatorio-de-avaliacao.pdf>. Accessed on: 9/16/2022.

HEALTH OF BLACK WOMEN

The evolution of maternal mortality remained stable in the period and higher among women of African descent. Breast and cervical cancer mortality has been increasing in all segments, with the exception of indigenous women.



WOMEN OF AFRICAN DESCENT ("PRETAS")¹⁰ PUERPERAL

X WHITE WOMEN PUERPERAL

Higher risk of having inadequate prenatal care, higher chances of being unaccompanied during childbirth and higher chances of having passed through more than one hospital at the time of hospitalization for childbirth.¹¹

COVID-19

Among the reported cases of pregnant or postpartum women who had severe acute respiratory syndrome (SARS), the mortality **numbers for black women** was **almost double** the number for white women.

National Policy on Comprehensive Healthcare of the Population of African Descent

Approved by the National Health Council (CNS), in 2006, and instituted by Ordinance No. 992/2009.

It aims to promote comprehensive healthcare of people of African descent, prioritizing the reduction of ethnic and racial inequalities and the fight against racism and discrimination in healthcare institutions and services.

Law No. 12.288/2010 (Racial Equality Statute) – also provides for a similar policy.

Although there were important initiatives, there was no systematic and extensive functioning of the policy at the federal level in the period under review. Some of the main determinations brought by Ordinance No. 992/2009 and the main responsibilities assigned to federal managers in the Third Operational Plan (2017-2019) of the Policy have not been or are not being executed.¹²

Only 3% of the municipalities had established instances to conduct, coordinate and monitor healthcare actions focused on the population of African descent.¹³

¹⁰ TRANSLATION NOTE: In Brazil, the official racial classification for data production separates people of African descent in two groups: "pretas/os" and "pardas/os". Both are used to identify people of African descent or black people, however due to historic factors such as miscegenation, internalized racism, among other effects of colonialism and slavery, the separation was needed to better reflect the national context. This classification is used by the Brazilian Institute of Geography and Statistics (IBGE) and several other public research institutes, experts and civil society organizations. Whenever information on people of African descent refers to only one of those two groups, it will be properly identified in parenthesis.

¹¹ LEAL *et al.* The colour of pain: racial inequalities in prenatal healthcare and childbirth in Brazil. *Cad Saúde Pública*. 33, 2017.

¹² Response to Ric No. 1099/2020, available at: https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1940202&filename=Tramitacao-RIC+1099/2020. Accessed on: 9/20/2022.

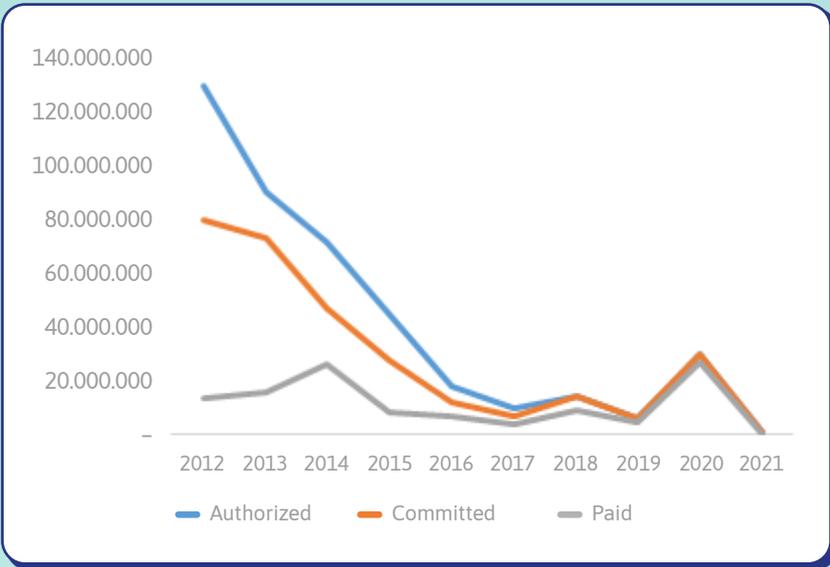
¹³ Survey and data available at: <http://www.generonumero.media/10-anos-politica-saude-populacao-negra/>. Accessed on: 9/20/2022.

QUILOMBOLA COMMUNITIES

Research carried out in 2011 and published in 2014 by the then Ministry of Social Development

71.4% of the population surveyed did not have family health teams actions	85% lived in communities without a basic healthcare unit
45% of the households surveyed were composed of families who had less than R\$70.00 <i>per capita</i> , including income transfers from the Bolsa Família Programme (PBF)	In terms of the average monthly income <i>per capita</i> of the households of the quilombola communities surveyed, it was R\$160.73

BUDGETARY IMPLEMENTATION OF RESOURCES FOR THE QUILOMBOLA POPULATION (2012-2021)



It is estimated that there are 5,972 quilombola communities in Brazil¹⁵

This is much more than the number of communities currently certified by the Palmares Cultural Foundation = 2,792 communities¹⁶

Source: Integrated System for Budgetary Planning (SIOP). Data from 2012 to 2019 adjusted by the IPCA at average prices of 2019. 2020 and 2021 data in nominal values.

¹⁴ This is the research "Evaluation of the situation of food and nutritional security in quilombola titled communities", whose main results were made available in BRAZIL. **Cadernos de estudos desenvolvimento social em debate - No 20**. Brasília: Ministry of Social Development and Combatting Hunger; Secretariat of Evaluation and Information Management, 2014. For an overview of the socioeconomic profile of the population surveyed, see p. 198 et seq.

¹⁵ Available at: <https://quilombolas-ibgedgc.hub.arcgis.com/datasets/581d1392648b4563865546ee3a20b97b>. Accessed on: 9/20/2022.

¹⁶ According to data available at: http://www.palmares.gov.br/?page_id=37551. Accessed on: 9/20/2022.

RESOURCES FOR REGULARIZING QUILOMBOLA LAND



There are 1,748 land regularization processes in backlog waiting to be referred



A positive development in the promotion of the rights of quilombola peoples with regard to access to land was the decision of the STF in the Direct Action of Unconstitutionality No. 3.239/2018, when the constitutionality of Decree No. 4.887/2003, edited by the Executive Branch, which regulated access to land for quilombola communities, was questioned. The decision reaffirmed the constitutionality of the decree.

LEGISLATION AND POLICIES TO COMBAT RACISM AND PROMOTE RACIAL EQUALITY

About

18% of self-declared people of African descent ("pardos")

55% of other self-declared people of African descent ("pretos")

Claim to have suffered discrimination due to race.

17



¹⁷ Research available at: <http://media.folha.uol.com.br/datafolha/2019/01/16/adebadbad191eec6d752f5825b00cb45prc.pdf>. Accessed on: 9/19/2022. The term present in the question in question of the research is "prejudice", meaning in the context, however, the same as we defined previously as "discrimination".

Racial slur, provided for in the Brazilian Penal Code, is the most reported type of racial discrimination.

It is associated with derogatory words directed to someone's race with the intention of offending the victim's honour.

Racism, governed by Law No. 7.716/1989, defines a series of crimes related to discriminatory conduct directed to a particular group or collectivity.

The Supreme Court recognized the equivalence of crimes of racial slur and racism in 2019, at the judgment of the Internal Appeal in *Habeas Corpus* No. 142.583.

Crimes of racial slur are also not subject to the statute of limitations and unenforceable.

As this is not yet a binding decision, it is an opportunity for the parliament to decide upon definitive clarifications on the issue.

Bill No. 4,566/2021

Amends Law No. 7.716/1989, which typifies conducts considered racists from a criminal point of view

Ready for consideration in the House of Representatives

Labour issues

- **Law No. 9.029/1995**: prohibits discriminatory practices for the purpose of admission or permanence of legally binding labour relations.
- **ILO Convention No. 111** (Brazil is a signatory), initially promulgated by **Decree No. 62.150/1968**: address the fight against discrimination in employment and occupation.
- **Decree-Law No. 5.452/1943** (Consolidation of Labour Laws): has provisions prohibiting racial discrimination.
- **Law No. 12.288/2010** (Racial Equality Statute): establishes legal concepts that characterize discriminatory practices and guidelines for anti-discrimination policies.
- **Law No. 9.029/1995**: related to administrative fines.



Religious and racial violence against traditional *terreiro* communities¹⁸

- Dial 100: one of the main mechanisms for reporting this type of violence and human rights violation.
- STF decided, in the judgment of Extraordinary Appeal (RE) No. 494.601, on the constitutionality of Law No. 11.915/2003, of the state of Rio Grande do Sul, which provides for the ritual sacrifice in cults and liturgies by religions of African origin.



Racial discrimination in schools

- Laws No. 10.639/2003 and No. 11.645/2008: included in the programmatic content of basic education the “study of Africa's and Africans' history, the struggle of people of African descent and indigenous peoples in Brazil, black and indigenous Brazilian culture” and their “contributions in the social, economic and political areas” in the country.
 - ↳ The implementation of these legislation is proving to be severely inadequate.
- No comprehensive action from the Ministry of Education was identified in relation to racial discrimination in classrooms during the third cycle of the UPR.



Important public policies

Between 2005 and 2006, the federal government participated in the development of the Programme to Combat Institutional Racism, conceived by the United Nations Development Programme (UNDP) and the Technical Cooperation Agency of the British Ministry for International Development and Poverty Reduction (DFID).

In 2017, campaigns to combat racism were carried out within the scope of the Unified Healthcare System and the Unified Social Assistance System.



All initiatives, however, were temporary in nature and have been discontinued

¹⁸ TRANSLATION NOTE: Traditional *terreiro* communities are the name given to the communities and/or group of people who are part of religions of African origin in Brazil. Their places of sacred reunion, celebration and worship are called *terreiros*, and they constitute a collective space for sharing traditional knowledge, culture, and practices of African origin. *Terreiro* communities are considered traditional peoples in Brazil.

BUDGETARY ISSUES

2019

R\$217.66 million executed

2020

R\$370 thousand executed

2021

R\$2 million executed

The fight against racism and the promotion of racial equality were excluded from the Pluri-annual Plan (PPA), as well as the Inter-Council Forum, an initiative from the former Ministry of Planning and the General Secretariat of the Presidency, which included the monitoring of transversal agendas, such as combating racism.

Decree No. 10.087/2019 extinguished the Articulation and Monitoring Committee of the National Plan for the Promotion of Racial Equality (Planapir).



LEARN MORE

Full report – Rights of people of African descent, combating racism and the rights of quilombola communities

- **Public Hearing People of African descent and the fight against racism on 05/14/2021**
- **Public Hearing Quilombola Communities on 5/21/2021**
- **Report on the audience – Quilombola communities**
- **Report on the audience – People of African descent and the fight against racism**
- **Parliamentary Observatory of the Universal Periodic Review**