



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/BRA/CO/2
1 December 2005

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Eighty-fifth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

BRAZIL

1. The Committee considered the second periodic report of Brazil (CCPR/C/BRA/2004/2) at its 2326th and 2327th meetings (CCPR/C/SR.2326 and 2327), on 26 and 27 October 2005, and adopted the following concluding observations at its 2336th meeting (CCPR/C/SR.2336), on 2 November 2005.

A. Introduction

2. The Committee welcomes the second periodic report submitted by Brazil while regretting that it was presented more than eight years after the examination of the initial report. It expresses its appreciation for the dialogue with the State party delegation. The Committee also welcomes the extensive responses to the list of issues in written form, which facilitated discussion between the delegation and Committee members. In addition, the Committee appreciates the delegation's oral responses given to questions raised and to concerns expressed during the consideration of the report.

B. Positive aspects

3. The Committee welcomes the campaign for civil registration of births, needed, inter alia, to facilitate and ensure full access to social services.

4. The Committee welcomes institutional measures to protect human rights in the State party, namely, the establishment of Police Ombudsmen's Offices and "Legal Desks" to provide legal advice and civil documentation to indigenous and rural communities, as well as the "Brazil Without Homophobia" programme, the "Afro-Attitude" programme to support black students in public universities and the "Plan Against Violence in the Countryside".

C. Principal subjects of concern and recommendations

5. While noting the adoption of various programmes and plans to promote the appreciation of human rights, including dialogues and education, the Committee regrets the general absence of specific data to permit evaluation of the practical enjoyment of human rights, especially in regard to alleged violations in the states of the Federative Republic of Brazil (articles 1, 2, 3, 26 and 27) of the Covenant.

The State party should provide detailed information regarding the effectiveness of programmes, plans and other measures taken to protect and promote human rights, and is encouraged to strengthen mechanisms to monitor the performance of those measures at the local level. This should include statistical data on issues such as domestic violence against women, police lethality, and arbitrary prolonged confinement.

6. The Committee is concerned about the slow pace of demarcation of indigenous lands, the forced evictions of indigenous populations from their land and the lack of legal remedies to reverse these evictions and compensate the victimized populations for the loss of their residence and subsistence (arts. 1 and 27).

The State party should accelerate the demarcation of indigenous lands and provide effective civil and criminal remedies for deliberate trespass on those lands.

7. While acknowledging the federal structure of Brazil, the Committee is disturbed by the failure of the judiciary in some states of the Federation to act against human rights violations (art. 2).

The State party should create appropriate mechanisms to monitor the performance of the judiciary at the state level, in order to fulfil its international obligations under the Covenant. The State party should increase its efforts to sensitize the judiciary, especially at the State level, to the need to take seriously and deal effectively with allegations of human rights violations

8. While welcoming the existence of a Secretariat for Human Rights under the Presidency of the Republic, the Committee regrets the proposed significant reduction in the budget of the Secretariat (art. 2).

The State party should strengthen the Secretariat for Human Rights and provide it with adequate resources so as to allow it to function effectively.

9. The Committee is disturbed by the apparent absence of effective civilian supervision of the activities of the military police (art. 2).

The State party should ensure that the military police are subject to the institutions and procedures of judicial and civilian accountability. The ordinary courts should have criminal jurisdiction over all serious human rights violations committed by the military police, including excessive use of force and manslaughter, as well as intentional murder.

10. The Committee is concerned about the low level of participation of women, Afro-Brazilians and indigenous peoples in public affairs and their disproportionately limited presence in the political and judicial life of the State party (arts. 2, 3, 25 and 26).

The State party should take appropriate measures to ensure the effective participation of women, Afro-Brazilians, and indigenous peoples in political, judicial, public and other sectors of the State party.

11. The Committee is concerned about the lack of information regarding the incidence of domestic violence and regrets the absence of specific legal provisions to prevent, combat and eliminate such violence. It is also concerned about the illegal practice of some employers in requiring sterilization certificates as a condition of women's employment (art. 3).

The State party should adopt, and implement, appropriate criminal and civil laws and policies to prevent and combat domestic violence, and assist the victims. In order to raise public awareness, it should initiate the necessary media campaigns and increase educational programmes. It should also adopt adequate measures, including sanctions, against the impermissible practice of requesting sterilization certificates for employment purposes.

12. The Committee is concerned about the widespread use of excessive force by law enforcement officials, the use of torture to extract confessions from suspects, the ill-treatment of detainees in police custody, and extrajudicial execution of suspects. It is concerned that such gross human rights violations committed by law enforcement officials are not investigated properly and that compensation to victims has not been provided, thus creating a climate of impunity (arts. 6 and 7).

The State party should:

- (a) Take stringent measures to eradicate extrajudicial killing, torture, and other forms of ill-treatment and abuse committed by law enforcement officials;**
- (b) Ensure prompt and impartial investigations into all allegations of human rights violations committed by law enforcement officials. Such investigations should, in particular, not be undertaken by or under the authority of the police, but by an independent body, and the accused should be subject to suspension or re-assignment during the process of investigation;**

- (c) **Prosecute perpetrators and ensure that they are punished in a manner proportionate to the seriousness of the crimes committed, and grant effective remedies, including redress, to the victims; and**
- (d) **Give utmost consideration to the recommendations of the United Nations Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the independence of judges and lawyers contained in the reports of their visits to the country.**

13. While acknowledging the recent amendment to the Brazilian Constitution allowing the Prosecutor-General of the Republic to seek a transfer of certain human rights violations from state to federal jurisdiction, the Committee is concerned about the ineffectiveness to date of such a mechanism. It is also concerned about the widespread reports and documentation of threats against and murders of rural leaders, human rights defenders, witnesses, police ombudsmen and even judges. (arts. 7 and 14)

The State party should ensure that the constitutional safeguard of federalization of human rights crimes becomes an efficient and practical mechanism in order to ensure prompt, thorough, independent and impartial investigations and prosecution of serious human rights violations.

14. While noting the establishment of the National Commission for the Eradication of Slave Labour, the Committee is still concerned about the persistence of practices of slave labour and forced labour in the State party and the absence of effective criminal sanctions against these practices (art. 8).

The State party should reinforce its measures to combat practices of slave labour and forced labour. It should create a clear criminal penalty for such practices, prosecute and punish perpetrators, and ensure that protection and redress are granted to victims.

15. The Committee is concerned about persistent trafficking in women and children, the alleged involvement of some officials in acts of trafficking, and the lack of effective witness and victim protection mechanisms (arts. 8, 24 and 26).

The State party should reinforce international cooperation mechanisms to fight trafficking in persons, prosecute perpetrators, provide protection and redress to all victims, protect witnesses and root out trafficking-related official corruption.

16. The Committee is concerned about gross overcrowding and inhuman conditions of detention in jails at the state and federal levels, the use of prolonged remand in police custody and the arbitrary confinement of prisoners after their sentences have been completed (arts. 9 and 10).

The State party should urgently take steps to improve the conditions for all persons deprived of their liberty before trial and after conviction. It should ensure that detention in police custody before access to counsel is limited to one or two days following arrest, and end the practice of remand detention in police stations. The

State party should develop a system of bail pending trial, ensure that defendants are brought to trial as speedily as possible, and implement alternatives to imprisonment. In addition, the State party should take urgent measures to end the widespread practice of detaining prisoners in prolonged confinement even after their sentences have expired.

17. While taking note of recent efforts undertaken by the State party to reform the judiciary and increase its efficiency, the Committee remains concerned about interference with the independence of the judiciary and the problem of judicial corruption. It is also concerned about a lack of access to counsel and legal aid, and undue delay of trials (art. 14).

The State party should guarantee the independence of the judiciary; take measures to eradicate all forms of interference with judicial independence; ensure prompt, thorough, independent and impartial investigations into all allegations of interference; and prosecute and punish perpetrators. It should establish mechanisms to improve the capacity and efficiency of the judiciary, so as to allow access to justice to all without discrimination.

18. While noting that the State party has created a right to compensation for victims of human rights violations by Brazil's military dictatorship, there has been no official inquiry into or direct accountability for the grave human rights violations of the dictatorship (arts. 2 and 14).

To combat impunity, the State party should consider other methods of accountability for human rights crimes committed under the military dictatorship, including disqualifying of gross human rights violators from relevant public office and establishing justice and truth inquiry processes. The State party should make public all documents relevant to human rights abuses, including the documents currently withheld pursuant to presidential decree 4553.

19. The Committee is concerned about the situation of street children and the absence of information and measures needed to remedy their plight (arts. 23 and 24).

The State party should adopt effective measures to combat the phenomenon of street children and the abuse and exploitation of children in general, and establish public awareness-raising campaigns regarding children's rights.

20. The Committee is concerned about the lack of information on the Roma community and allegations that this community suffers discrimination, in particular with regard to equal access to health services, social assistance, education and employment (arts. 2, 26 and 27).

The State party should provide information on the situation of the Roma community and the measures taken to ensure their practical enjoyment of rights under the Covenant.

21. The Committee requests that the State party's second periodic report, the list of issues and the present concluding observations be widely disseminated throughout Brazil in the country's main languages, and that the next periodic report be brought to the attention of non-governmental organizations operating in the country before being submitted to the Committee.

22. In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, the relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 6, 12, 16 and 18 above.

23. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 31 October 2009, information on the other recommendations made and on the Covenant as a whole.
