

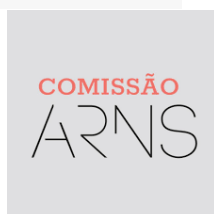
Committee against Torture - CAT 76th Session (April 2023)

**JOINT REPORT OF BRAZILIAN CIVIL SOCIETY**

**Second Periodic Report - Federative Republic of Brazil**



**PASTORAL  
CARCERÁRIA**  
“Estive preso e vieste me visitar”



Assessoria Popular Maria Felipa

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## 1 - The Persistence of the Practice of Torture and Inhuman Treatment in Brazil

The efforts by ratifying the CAT and the OP-CAT, as well as criminal legislation drafted after the return of democratic rule in the country, were not enough to eradicate or considerably reduce torture in Brazil. The lack of a report by the Brazilian State to the CAT, due since 2009, represents one of the challenges to achieve this goal.

Although the criminalization of torture is provided for by law and there is a system aimed at supervising, monitoring and punishing the respective violations, torture continues to be recurrently used as a practice by Brazilian police institutions. It occurs inside and outside prisons and, most of the time, lacking thorough investigation and accountability. On the contrary, its practice is institutionally invisible, relying on an articulation between police and justice institutions that naturalizes and perpetuates the practice of torture.

The National Council of Justice (CNJ) shows that between 2019 and July 2022, there were at least 44,200 complaints of torture and ill-treatment made at the time of detention reported at custody hearings, doubling the previous four years.<sup>1</sup>

The Pastoral Carcerária denounces that, in 2022, reports of torture in prisons increased by 37% throughout the country. The report "*Voices and data of torture in times of mass incarceration*",<sup>2</sup> recorded 369 cases reported between 2021 and 2022, and of this total, 52.2% relate to physical aggression, such as punches, slaps, kicks, shots, beatings; 18.38% to verbal aggression, such as name-calling and humiliation; 1.73% to discrimination based on race/color, ethnicity, gender identity or sexual orientation; 36.32% to the use of degrading treatment, such as keeping incarcerated people sitting on the floor under hot sun, deprivation of sunbathing for days for months, etc.

The report also points out that, of the registered cases, 30.01% deal with violation of the rights of family members, such as denial of the right to visit, denial of the right to send basic survival items, denial of the right to send letters; 1.34% of sexual violence committed by the police; 2.24% vexatious checks; 13.9% of the use of firearms, pepper spray, tear gas bomb, stun bomb,

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<sup>1</sup> Available from: [www.conjur.com.br/2022-ago-03/34-anos-depois-aprovacao-fim-tortura-casos-dobram-pais#:~:text=Nos%20tr%C3%AAs%20anos%20previous%20E2%80%94%20between,torture%20e%2Fou%20maus%20tratamento.](http://www.conjur.com.br/2022-ago-03/34-anos-depois-aprovacao-fim-tortura-casos-dobram-pais#:~:text=Nos%20tr%C3%AAs%20anos%20previous%20E2%80%94%20between,torture%20e%2Fou%20maus%20tratamento.)

<sup>2</sup> Available from: [https://static.poder360.com.br/2023/01/pastoral-carceraria-torture-us-prisoners-18jan-2023.pdf.](https://static.poder360.com.br/2023/01/pastoral-carceraria-torture-us-prisoners-18jan-2023.pdf)

rubber bullet or other torture tools such as baton, broomstick, plastic bag for suffocation, wire, wet towel etc.; 55.1% of the lack of healthy food, drinking water and absence of basic hygiene items; 47.53% of lack of medications, of necessary surgical procedures; and 9.41% of lack of legal assistance.

The Monitoring and Supervision Unit of the Prison System of the Court of Justice of Maranhão (UMF) has data that indicate that, between the months of February and December 2021, 454 reports of torture were identified in custody hearings throughout the State of Maranhão. Data provided to the Maranhão Society of Human Rights (SMDH) by the Internal Affairs of the State System of Public Security indicate that 96 administrative procedures were instituted to investigate the occurrence of torture involving Military Police between the years 2015 and 2021, and the State has approximately one thousand police officers investigated annually due to various occurrences (abuse of authority, aggression, threat, misappropriation, extortion, home invasion, among others).

## **Prison Conditions**

There are structural problems on minimum conditions of habitability, such as the lack of mattresses and beds for the rest of the imprisoned people; the distribution of food unfit for consumption or the lack of any food; the lack of drinking and hygienic water in the cells; as well as the lack of pads or remedies specific to female conditions; the closure of the prison to civil society. These are ways that the State, allied to private initiative (with the rise of prison privatizations), has found to inflict even more suffering on the lives of prisoners and their families. This is intrinsically related to the fact that these people are mostly black, poor and peripheral.

During the years in which data on allegations of torture received by the Pastoral Carcerária Nacional were systematized, 5 reports were released. In these documents, an analysis of what were brought by the complainants in the reports we received, along with the look that members of Pastoral Carcerária have in several states. And the result is appalling. In the first report "Torture in Times of Mass Incarceration", released in 2016 and containing data from complaints collected from 2005 to 2016, the main forms of torture demonstrated degrading conditions of imprisonment (71 cases) and physical aggression (70 cases).<sup>3</sup>

In 2023, when the report "Voices and Data on Torture in Times of Mass Incarceration," was released, with data from January 1, 2021 to July 31, 2022, elucidating that main types of

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<sup>3</sup> Available in: [https://carceraria.org.br/wp-content/uploads/2016/10/Relat%C3%B3rio\\_Tortura\\_em\\_Tempos\\_de\\_Encarceramento\\_em\\_Massa-1.pdf](https://carceraria.org.br/wp-content/uploads/2016/10/Relat%C3%B3rio_Tortura_em_Tempos_de_Encarceramento_em_Massa-1.pdf). Accessed: April 10, 2023.

violence applied to torture were negligence in the provision of material assistance (123 cases), physical assaults (116 cases), and negligence in the provision of health care (106 cases).<sup>4</sup>

In 2016, 105 cases were analyzed over 11 years. In 2023, 223 cases from 369 allegations of torture over a period of 1 year and 6 months were analyzed. In addition to the dissemination of the National Prison Pastoral database, these figures show the cruelty in Brazilian prisons. The rise of hate speech to the highest echelons of government and the disdain of progressive groups towards the prison system are some of the catalysts for the increase in these numbers. Another factor is the militarization of the prison system, with its maxims being the institution of the Penitentiary Intervention Task Forces and the approval of Constitutional Amendment No. 104, which raised the category of penitentiary agent to the criminal police.

This situation only aggravates the already torturous experience of prisoners, their families and survivors of the prison system. In the last report released by the Pastoral Carcerária Nacional, cases of vexatious check and institutionalized rape that occurs daily in Brazilian prisons, were reported. Although in 2014 there was a national mobilization to stop this practice and *body scanner* devices were instituted, the reality is that family members are subjected to practices that violate their intimacies even today:

"There are reports that the women arrested, upon returning from the period of temporary Christmas leave, would be undergoing an evaluation by the body scanner (...). By supposedly being detected with spots that are not "normal" to human anatomy, they would be staying in a sector called "cageolan" – a cubic space that only has chairs – until the stain disappears. The trapped women who were in the cage had to undergo a humiliating evaluation in their anal orifices and feces, after supposedly detecting a stain on the radiographic image (...). One of the inmates who allegedly went through this absurdity, after 3 days isolated in the cage, would have found that it was only an umbilical hernia, after taking her to the hospital."

It was also analyzed the reactions of the state agencies to the complaints reported and the result is discouraging. In one of the cases explored in the latest report, an inmate reportedly died in the prison unit after being shot in the head. The criminal police officers responsible for custody at the scene would be carrying a .38-caliber revolver and carbine. Also, according to the complaint, some prisoners had their belongings - clothes, blankets, hygiene items, etc. - confiscated by the penal police. Finally, it was reported that the trapped people had been without power for more than 2 months.

From the complaints, the Pastoral Carcerária Nacional referred the case to the organs of criminal enforcement, proposing in loco inspections, hearings of arrested people, examination of the body of crime, the regularization of the electricity supply, among other measures.

After questioning by the State Prosecutor's Office, the direction of the prison unit replied that:

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<sup>4</sup> Available in: <https://carceraria.org.br/combate-e-prevencao-a-tortura/pastoral-carceraria-lanca-relatorio-vozes-e-dados-da-tortura-em-tempos-de-encarceramento-em-massa>. Access in: 1April 0, 2023.

"The public servants who acted in the intervention by making lethal shots were presented to the police authority, and the weapons were collected for the expertise and the servers heard in the sequence released."

That is, despite the materiality and authorship about the occurrence of death of a person arrested in the unit, it was not considered sufficient reason for removal or adoption of provisional measures in the face of the criminal police.

These situations show us that, despite the demands of family members, survivors and social movements that defend human rights, we do not have a strong stance of the Brazilian State that shows an openness to rethink the prison situation in Brazil.

The reality is illustrated by the Complexo do Curado, where the Brazilian State was in the dock before the Inter-American Commission on Human Rights (IACHR) in 2015 due to the subhuman conditions there. However, in inspections by the National Council of Justice (CNJ) in 2022, several violations were found in prison, such as the use of "keychains" - inmates who are responsible for the custody of their peers, deciding who has the right to work, legal, health and psychosocial assistance.<sup>56</sup>

In this sense, it is of utmost importance the revision of the conditions of imprisonment in Brazil, evaluating not only the new technologies of violence, but also those already known and that have not changed or been improved.

## **2 – Institutional Machinery to Combat Torture (Committee and Mechanism)**

Brazil is obliged to comply with the CAT and OP-CAT and accordingly adopted Federal Law No. 9,455/1997, which typifies the crime of torture, and created and installed the National System for Preventing and Combating Torture by Federal Law No. 12,847/2013. (regulated by Federal Decree No. 8,154/2013. It includes the National Mechanism for Preventing and Combating Torture (MNPCT) and the National Committee for Preventing and Combating Torture (CNPCT).<sup>789</sup>

The federal government, during the Bolsonaro administration, attacked these institutions with a severe blow: dismantled of the participation of civil society in the National Committee for the

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<sup>5</sup> Available in: <<http://www.global.org.br/blog/corte-interamericane-of-human-rights-program-inspection-in-the-complex-penitentiary-of-the-cured-anibal-bruno-in-pernambuco/>>. Accessed: April 10, 2023.

<sup>6</sup> Available in: <<https://g1.globo.com/pe/pernambuco/noticia/2023/04/06/presidios-de-pe-tem-aluguel-de-barracos-presos-com-mordomias-e-outros-passando-fome-diz-cnj.ghml>>. Access on: April 10, 2023.

<sup>7</sup> The Convention was adopted by Federal Decree No. 40/1991 and the Optional Protocol by Federal Decree No. 6085/2007. The prohibition of torture is provided for in article 5, item III, of the 1988 Federal Constitution, which states: "no one shall be subjected to torture or to inhuman or degrading treatment".

<sup>8</sup> Available from: [www.planalto.gov.br/ccivil\\_03/ato2011-2014/2013/lei/l12847.htm](http://www.planalto.gov.br/ccivil_03/ato2011-2014/2013/lei/l12847.htm).

<sup>9</sup> Available from: [www.planalto.gov.br/ccivil\\_03/ato2011-2014/2013/Decreto/D8154.htm#art26](http://www.planalto.gov.br/ccivil_03/ato2011-2014/2013/Decreto/D8154.htm#art26).

Prevention and Combat of Torture (CNPCT) and a dismantled of the means of action of the National Mechanism for Preventing and Combating Torture (MNPCT). The main impact, in the case of the MNPCT, was the extinction of the paid positions of the experts who work in it and their conversion into an unpaid public service, which totally weakened the body's performance. It practically made it impossible to carry out what its duties. Although it was warned by the United Nations Subcommittee on the Prevention of Torture, the federal government insisted on hiring experts without any remuneration, according to the Notice of May 13, 2020.<sup>101112</sup>

Fortunately, part of this crises was remediated by decision of the Federal Supreme Court (STF) and the edition of a federal Decree in the first days of 2023, under the new administration. The Federal Supreme Court thus ruled on the case: "The transformation of the activity into an unpaid public service makes it impossible for the work to be done with full dedication and discourages specialized professionals from integrating the technical staff of the agency" (ADPF Judgment No. 607). In the same ruling, the Court determined that "the experts of the MNPCT must be appointed to a position in committee, and the allocation of 11 positions in committee of the Superior Management and Advisory Group (DAS 102.4) – or equivalent position – to the experts of the MNPCT must be reinstated, guaranteeing their remuneration" (ADPF Judgment No. 607).<sup>1314</sup>

In particular, it is important to note that the National Mechanism for Preventing and Combating Torture (MNPCT), while in conditions of proper functioning, has produced a set of Reports showing the existence of the crime of torture in the country and the insufficiency of the measures taken for its eradication, giving full compliance with the Federal Constitution and the various administrative and political measures for its total ban.<sup>15</sup>

With regard to the MNPCT, the Brazilian State has not yet granted and forwarded the appeal made by the Federal Supreme Court for "the necessary conditions to be established in law so that the powers of the MNPCT are exercised with due legal certainty and independence, according to the commitment assumed by the Brazilian State in the national and international

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<sup>10</sup> Federal Decree No. 9.831/2019, available from: [www.planalto.gov.br/ccivil\\_03/Ato2019-2022/2019/Decreto/D9831.htm#art5](http://www.planalto.gov.br/ccivil_03/Ato2019-2022/2019/Decreto/D9831.htm#art5).

<sup>11</sup> SPT Views of the Subcommittee on Prevention of Torture on the compatibility with the Optional Protocol to the Convention against Torture of presidential decree No. 9.831/2019 relating to the national preventive mechanism of Brazil (UN Doc.CAT/OP/8), 2019. "The adoption and entry into force of presidential Decree No. 9.831 has severely weakened the policy on torture prevention in Brazil by rendering it difficult for the national preventive mechanism to operate in a manner that is compliant with the Optional Protocol. In view of all of the above, the Subcommittee takes the view that Decree No. 9.831 should be revoked in order to better ensure that the State party's system of prevention of torture functions efficiently and independently, with financial and structural autonomy and adequate resources, in accordance with its international obligations under the Optional Protocol.

<sup>12</sup> Available from: <https://www.in.gov.br/web/dou/-/resolucao-n-21-de-13-de-maio-de-2020-256978565>.

<sup>13</sup> Particularly by the Federal Decrees nº 11.341 and 11.394/2023. Available from: [https://www.planalto.gov.br/ccivil\\_03/Ato2023-2026/2023/Decreto/D11341.htm](https://www.planalto.gov.br/ccivil_03/Ato2023-2026/2023/Decreto/D11341.htm) and [https://www.planalto.gov.br/ccivil\\_03/ato2023-2026/2023/Decreto/D11394.htm](https://www.planalto.gov.br/ccivil_03/ato2023-2026/2023/Decreto/D11394.htm).

<sup>14</sup> Available from: <https://portal.stf.jus.br/processos/downloadPeca.asp?id=15351516552&ext=.pdf>.

<sup>15</sup> For further information on the various reports, please access <https://mnpctbrasil.wordpress.com/relatorios/>.

order" (ADPF Judgment No. 607). Thus, Brazilian civil society counts on the reinforcement of this United Nations body to reinforce the orientation of the Court.

There is an objective limit still pending, which is the capillarization of this system through the creation of Committees and Mechanisms in the federated units, the States. They have been implemented in nine of the 27 units of the federation: in Rio de Janeiro (State Law No. 5,778/2010); Pernambuco (State Law No. 14,863/2012); Rondônia (State Law No. 3,262/2013); Paraíba (State Law No. 9,413/2011); Espírito Santo (State Law No. 10,006/2013); Maranhão (State Law No. 10,334/2015), Goiás (State Law No. 19,684/2017); Mato Grosso do Sul (State Law No. <sup>16</sup>5,314/2018); and Sergipe (State Law No. 8,135/2016).

In addition to these, there is the Committee with partial and debatable implementation, since it does not follow all national and international standards: in Acre (State Decree No. 7,304/2020); in Alagoas (State Law No. 7,141/2009); in Amapá (State Law No. 2,226/2017); in Amazonas (State Decree No. 37,178/2016), in Bahia (Decree No. 10,652/2007), in Ceará (State Decree No. 30,573/2011); in Pará (Resolution CESP No. 159/2010); in Piauí (State Decree No. 14,233/2010); and Rio Grande do Norte (State Decree No. 29,268/2019).

There is no Committee nor Mechanism eight States: the Federal District, Mato Grosso, Minas Gerais, Paraná, Roraima, Rio Grande do Sul, São Paulo and Tocantins. A legislative bill to create a local mechanism is under debate at the São Paulo State parliament. The Arns Commission keeps constant dialogue with the Secretariat of Justice and Defense of Citizenship of the State Government, to ensure its effectiveness. In addition, in partnership with the Institute for the Defense of the Right to Defense "Marcio Thomaz Bastos", Comissão Arns joined an *Amicus Curiae* to ADPF 607/2019 in the Federal Supreme Court (Process No. 7000368-34.2019.1.00.0000), against Bolsonaro's decree that dismantles the Mechanism for Preventing and Combating Torture, presenting the importance of maintaining the autonomy of the Mechanism in the face of the constitutional and international obligations by Brazil. The ADPF was tried in 2022 and the ruling overturned the federal decree that emptied the National Mechanism for Preventing and Combating Torture – MNPCT.<sup>1718</sup>

Brazilian civil society denounced during the process of the 4th cycle of the Universal Periodic Review of Brazil, in March/2023 that the recommendations of the previous cycle regarding the fight against torture (No. 72, 73, 74, 85, 86, 87 and 88), in addition to not having been complied with, were in retrogression. They deal with the institutional conditions for preventing and

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<sup>16</sup> For a more in-depth picture see the MNPCT 2020-2021 Report (2021, p. 47-57), available from: <https://mnpctbrasil.files.wordpress.com/2022/05/relatocc81rio-bienal-2020-2021-versao-final-3.pdf>.

<sup>17</sup> The available from: <https://iddd.org.br/iddd-e-comissao-arns-de-direitos-humanos-solicitam-ingresso-como-amicus-curiae-em-defesa-do-mecanismo-de-prevencao-e-combate-a-tortura/>.

<sup>18</sup> Available from: available at <https://comissaoarns.org/notas/2021-02-28-nota-p%C3%BAblica-30-em-defesa-do-comit%C3%AA-de-preven%C3%A7%C3%A3o-e-combate-%C3%A0-tortura/>.



combating torture, are not being fulfilled and today can be considered in retrogression.<sup>19</sup> Brazil accepted all the above recommendations

### **3 - Institutional Invisibility of Torture**

The institutional invisibility of torture is a direct result of the lack of concrete provision of data by the State. Most of the information available on reported cases of torture is produced by civil society entities or depends on their insistent provocation for it to be disclosed by the state. There are no data on the number of agents investigated and/or punished for the practice of torture, denoting the maintenance of a pattern of impunity that legitimizes and encourages the practice of torture by police institutions.

Still, the lack of information hinders the exercise of social control by civil society entities. Institutional bureaucracy that makes it difficult to obtain information. There is a lack of clear definitions on the investigative powers within the internal scope of the Public Prosecutor's Office, making it difficult to request information on the number of cases that have generated judicial investigations and, possibly, convictions. Thus, it can be said that there is a violation of the state duty of transparency and publicity, since it is not a simple task to identify the state agency responsible for the production and sharing of information, making it difficult to address the requests themselves.

This scenario evidences the maintenance of a state structure, involving both public security and institutions of the justice system, which legitimizes and perpetuates the practice of torture. This phenomenon is neither new nor unexpected, especially if we consider that Brazil is a country whose rise of democracy was not accompanied by a total and complete rupture with the remnants of the military dictatorship that multiply in police practices, in legislation and, especially, in the popular imagination.

### **4 - Prison Overpopulation with Discriminatory and Racist Bias**

Prison has been the punitive solution to a full range of social problems to which the state has been unable to provide answers. Instead of developing an educational system, the Brazilian society as a whole throws the illiterate in jail. They throw into prison the unemployed resulting from deindustrialization, the globalization of capital and the dismantling of the welfare state. In a critical view, it can be said that there is not a crisis in the Brazilian prison system, but rather a

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<sup>19</sup> Coletivo RPU Brasil. *Criminal Justice: Prison System, Public Security, Torture*. Available from: [https://plataformarpu.org.br/storage/publications\\_documents/nn1cAr9AZ7muZiRwdctNIbliC3wxsuE9kERpQfVE.pdf](https://plataformarpu.org.br/storage/publications_documents/nn1cAr9AZ7muZiRwdctNIbliC3wxsuE9kERpQfVE.pdf).



project of mass incarceration that aims to maintain social hierarchies, especially race and class, through extermination, control of bodies and populations. In this sense, mass incarceration is part of a project of control and extermination of undesirable populations. Racism is the privileged lens to understand the desire for extermination that inhabits Brazil's penal system and the elements that materially and symbolically structure the penalty. In the daily prison saturated with violence, the slave ships, the pillories and the crack of whiteness pulsate.

Brazil has the third largest prison population in the world, with 773,151 people deprived of liberty, both convicts and pretrial detainees. The number of people deprived of liberty awaiting sentencing remains large, about 33% of the general prison population (229,823 people). From 2017 to 2018, the growth reached 2.97%. And from the last half of 2018 to the first half of 2019, this figure grew 3.89%, which was celebrated by the former administration as a positive result, contrary to the standards set by the CAT. The overcrowding rate is 170.74%, with a compound of 94.16% men and 5.83% women. Between 2000 and 2019, the prison population increased by 224.5%. Causes of this overpopulation can be attributed to the very culture of incarceration as a (mistakenly) effective public security policy, disseminated in society in general and reinforced by the Judiciary, the lack of an efficient prison management system, and still incipient legislation on alternatives to deprivation of liberty.<sup>2021</sup>

The situation is aggravated when it comes to historically discriminated and racialized groups in the country. 64% of the prison population is black, while this group makes up 53% of the Brazilian population, that is, nearly two out of three prisoners is black in Brazil. If we cross the generational data, this distortion is even greater: 55% of the prison population is composed of young people, while this category represents 21.5% of the Brazilian population. If we keep this pace, by 2075, one in 10 people will be deprived of liberty in Brazil.

Although the female prison population is historically smaller than the male counterpart, it can be said that there is a feminization of punishment, especially with regard to the crime of drug trafficking - the processes of production of social vulnerability and domination cannot be understood without taking into account the intersection of race, gender and social class. Black, poor and woman demarcates the position of extreme vulnerability in Brazilian society, with disproportionate effects in the context of justice. Black women occupy a place of total vulnerability in the Brazilian social pyramid. The current social situation of black women is the result of historical roots, whose ideology still determines their "place" and their "non-place". The ostensible surveillance and criminal selectivity to which black women are subjected is very important here because the interpreters of the law (be they police officers, prosecutors, judges, lawyers, legislators, administrators, public defenders and other public servants of criminal justice) reproduce, disseminate and sustain a racial regime of "production of truth", which favors the production of evidence and police action aimed at expanding criminal power and mass incarceration of individuals considered "suspicious". In this context, between 2006 and

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<sup>20</sup> Available from: <https://www.gov.br/pt-br/noticias/justica-e-seguranca/2020/02/dados-sobre-populacao-carceraria-do-brasil-sao-updated>.

<sup>21</sup> Available from: <https://www.oas.org/pt/cidh/relatorios/pdfs/Brasil2021-pt.pdf>.

2014, the female population in prisons increased by 567.4%, while the average increase in the male population was 220% in the same period. We have the fifth largest population of incarcerated women in the world; 50% of incarcerated women are between 18 and 29 years old and 67% are black, that is, two out of 3 women prisoners are black.

The data of young women under socio-educational measures has also been growing. The structure of the houses follows the prison logic, most of the inmates are between 15 and 17 years old, being 68% black – this data in the State of São Paulo reaches 72%. The abrupt growth happens, exactly, after 2006 and the approval of the Drug Law (Law No. 11,343, of 2006). Trafficking leads the typification for incarceration; 26% of the male prison population is imprisoned for trafficking, while among women, 62% of them are incarcerated for this typification. 54% of these people serve sentences of up to 8 years, which shows that imprisonment has been the only decision in the face of minor crimes. There are 1,424 prisons in the country; 4 out of 10 of these units are less than 10 years old. There is a disproportion in the weight of the definition of penalties between whites and blacks who committed the same crime; 57.6% of those accused in criminal courts are black, while in special courts that analyze less serious cases this number is reversed, with the majority white (52.6%).<sup>22</sup>

The State of São Paulo concentrates 36% of the entire female prison population of the country, with 15,104 women incarcerated, followed by the states of Minas Gerais, Paraná and Rio de Janeiro, which together account for 20% of the female prison population. By tracing the profile of these incarcerated women, it is possible to visualize an overtone of color and gender in São Paulo prisons: black women make up 67% of the total.

In the opposite sense, the Judiciary and law enforcement staff occupy a racially privileged "place" in Brazilian society. According to the Census of Magistrates conducted by the National Council of Justice (CNJ) in 2013, 64% of judges are men and 82% are judges of the higher courts. In terms of color/ethnicity: 84.5% are white, 15.4% are black/brown, and 0.1% are indigenous. Justice maintains several colonial remnants, essentially racist, as historical factors that perpetuate daily with cruel impact on the lives of these women. This makes them hyper-visible in the criminal system, as opposed to the low visibility for the labor and consumer markets. The matrices of the Brazilian criminal justice system and justice are fundamentally influenced by a conception of crime and punishment based on the punishment of the black bodies.

## **5 - Therapeutic Communities and the So-Called "Gay Cure"**

Therapeutic Communities (TCs) are institutions established by civil society organizations, most often religiously linked, which aim to treat people in abusive or problematic use of psychoactive substances. Its central prerogatives are to guarantee total abstinence by isolating the user

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<sup>22</sup> BORGES, Juliana. Racism, precarious lives and the justice system as a necropolitical machine. In: FEFFERMANN, Marisa, et al. Interfaces of Genocide in Brazil: race, gender and class. São Paulo: Institute of Health, 2018.

outside his social environment, voluntarily or involuntarily, and by imposing a disciplinary routine linked to labor therapy and spiritual/religious practices. It is estimated that, in Brazil, there are about 2 thousand TCs, 74% of which are located in rural areas. Since the Drug Law (Law No. 11,343/2006), these institutions have become linked to national public policies to serve drug users and rely on public financial resources. In 2011, the performance of TCs as part of a care network was better established through the federal program Crack, it is possible to win, and Ordinance No. 3,088, of the Ministry of Health (MS), which establishes the Psychosocial Care Network (RAPS). These regulations established prerogatives for the Therapeutic Communities to have access to the transfer of public financial resources, such as, for example, permanent articulation with the health services of the territory and being of a transitory nature.<sup>23</sup>

There is an important controversy about this public-private partnership and the type of care provision of Therapeutic Communities, especially because they are considered institutions of an asylum nature, hurting the mental health care model in force in the country since the Psychiatric Reform Law (Law No. 10,216/2001). This problem has been debated by scholars, professionals and society and complaints about human rights violations related to Therapeutic Communities have been growing in the country and have come to be investigated by the competent bodies. The 2011 National Human Rights Inspection Report: Places of Internment for Drug Users and the 2017 National Inspection Report on Therapeutic Communities provide information on the types of violations identified.<sup>24,25</sup>

After inspection in Therapeutic Communities of the five regions of the national territory, it was found that most of these institutions: 1) have an asylum and segregatory character, offering restrictions on free movement, with practices of incarceration and isolation, total or partial restriction of contact with the outside world, retention of personal documents and financial cards, violation of confidentiality of correspondence and telephone contacts, in addition to restricting access to media; 2) they are located in remote places and difficult to access, intensifying the isolation and incommunicability of the people hospitalized there, making it impossible to provide integrated and networked care, as recommended by the legislation; 3) commit legal irregularities involving involuntary hospitalizations (without the person's consent, at the request of a third party, authorized by a medical professional) and compulsory hospitalizations (determined by the courts); 4) offer therapeutic proposals without scientific basis and in non-compliance with legal norms, based on the imposition of dogmas and religious practices and on the use of labor therapy (unpaid work to maintain the spaces and activities of

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<sup>23</sup> IPEA. Therapeutic communities: themes for reflection, 2018. Available from: [https://portalantigo.ipea.gov.br/portal/images/stories/PDFs/books/books/190103\\_comunidades\\_terapeuticas.pdf](https://portalantigo.ipea.gov.br/portal/images/stories/PDFs/books/books/190103_comunidades_terapeuticas.pdf)

<sup>24</sup> Available from: [https://site.cfp.org.br/wp-content/uploads/2012/03/2a\\_Edixo\\_relatorio\\_inspecao\\_VERSxO\\_FINAL.pdf](https://site.cfp.org.br/wp-content/uploads/2012/03/2a_Edixo_relatorio_inspecao_VERSxO_FINAL.pdf).

<sup>25</sup> Available from: [https://site.cfp.org.br/wp-content/uploads/2018/06/Relatorio-da-inspecao-nacional-em-comunidades-terapeuticas\\_web.pdf](https://site.cfp.org.br/wp-content/uploads/2018/06/Relatorio-da-inspecao-nacional-em-comunidades-terapeuticas_web.pdf).

the institution), configuring forced labor; 5) apply sanctions and punishments when the activities are not fulfilled, with practices ranging from the obligation to perform repetitive tasks, increased labor therapy, loss of meals, confinement, use of force, physical violence and abusive and inappropriate use of restraint (mechanical and chemical); 6) present partial or total absence of individual documentary records; 7) they are lagging behind in a multidisciplinary health team and poor infrastructure; 8) offer a high degree of surveillance aimed at restricting movement and escape, added to inspection and search practices; 9) perform hospitalizations not related to the use of drugs, aiming at the withdrawal from social life, without adequate therapeutic proposal, of people with different psychiatric disorders, or behaviors called problematic, of rebellion or considered morally deviant from the norm.

Both inspections also identified cases in which people of sexual orientation and non-normative gender identities had their experiences disrespected in these institutions, through moral and religious condemnation, pathologization, impositions of behavior control, impediment of wearing clothes, haircut and social name according to the gender of identification. An illustrative case denounced in the media in 2013 informs us about the young F. G., 21 years old. His mother hired the services of a Therapeutic Community for his hospitalization without his knowledge. He was woken up while he slept in his room, being immobilized, sedated and driven against his will to involuntary internment in another state. F. G. denies having been a user of psychoactive substances and accused his mother of having hospitalized him for being homosexual. Reports such as this indicate that, considering the character already described of such institutions, they are places in which therapies for reversing sexual orientation and gender identity can easily be practiced. In Brazil, the "gay cure" is forbidden to be offered by psychology professionals, but there is no legislation that prohibits the practice by other professionals or institutions.<sup>26</sup>

According to the Atlas of Violence, in the Information System of Notifiable Diseases (Sinan) of the Unified Health System (SUS), 98.8% of the records do not have gender identity information, "because the methodology is unable to conceive cisgenderity as a gender identity, since it naturalizes it, categorizing everything that is divergent from it as a deviant" (p. 62). Thus, in addition to alarming data on violence against homosexuals, bisexuals, trans people and transvestites, the Atlas brings numbers of records of specific cases of torture against trans and transvestite people, with 204 cases reported in 2018 and 197 in 2019. (p. 64) It also warns that youth is the period of greatest vulnerability to violence for LGBTQIA+ people. According to the Atlas, it is adolescence, the period of identity formation, that is the highest point of vulnerability of homosexual and bisexual people, "and there is even a much greater concentration of violence against homosexual and bisexual youth, than against heterosexuals" (p. 64).<sup>27</sup>

Considering intersectionality, it is also important to note that "black people are the majority of victims regardless of sexual orientation and gender identity, which is also verified in the

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<sup>26</sup> Available from: <https://oglobo.globo.com/politica/clinicas-prometem-tratamento-de-cura-gay-9113264>.

<sup>27</sup> Available from: <https://forumseguranca.org.br/wp-content/uploads/2021/12/atlas-violencia-2021-v7.pdf>.

indicators of lethal violence related to the general population. It is noteworthy that the inequality of vulnerability to violence between black and white people is greater due to gender identity than sexual orientation, signaling the fact that public policies of refined targeting of the intersections between gender and race are fundamental to confront the violence that affects both groups, but that black trans people have needs that require even more focus" (p. 66). In this sense, it is essential that the Brazilian State commit itself to expanding the completion of gender identity in the violence notification form so that the nature of the violence suffered and the prevalence of torture in these cases can be evidenced.

In relation to the notifications of violence in Sinan, according to the Atlas, these are grouped by the Ministry of Health into 5 groups of violence, namely: i) physical, ii) psychological (includes financial/economic), iii) sexual, iv) negligence and v) others (includes torture, human trafficking, child labor, legal intervention and others). The data presented in the Atlas show that, in 2019, there were 468 notifications of violence against people with disabilities categorized as "Other", being 199 against people with intellectual disabilities, 122 against people with physical disabilities, 66 against people with multiple disabilities, 53 against people with visual impairment and 28 against people with hearing impairment (p. 77). It is also clear that notification rates are higher for women, regardless of the type of disability: of the 468 notifications categorized as "other", 297 were against women (p. 80). It is also important to note that most of these notifications refer to violence against adult citizens: there are 239 notifications referring to people with disabilities from 20 to 59 years old and 100 to people with disabilities over 60 years of age (p. 80). The vulnerability of people with disabilities only makes more evident the need for cases of torture to be counted by the Ministry of Health in an independent category, so that their prevalence can be assessed over the years and, thus, plan more appropriate public policies for prevention and, when this is not enough, postvention.

## **6 – Racial Police Brutality**

It is already part of the daily life of those who live in Brazil to have news through social networks and the media about cases of police abuse. In 2020, Data Favela, in partnership with the Central Única de Favelas (CUFA) and Instituto Locomotiva, conducted research on racism and violence in the peripheries of Brazil. The results indicate that 19 percent of low-income black men have experienced physical assaults in a police approach, only 5 percent of people believe police are not racist, and 83 percent believe that cases of violent police approach like the one run with George Floyd occur frequently in the country.<sup>28</sup>

Exactly two years after the death of George Floyd, on 05/25/22, Genivaldo de Jesus Santos, 38, a black man, diagnosed with schizophrenia, was approached by agents of the Federal Highway Police (PFR), in the state of Sergipe, for being driving without a helmet. During the police approach, he was tortured and killed. Witnesses say he collaborated with agents and even

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<sup>28</sup> Available from: <https://ilocomotiva.com.br/wp-content/uploads/2022/01/periferia-racismo-violencia.pdf>.

reported his psychiatric condition. He was immobilized and victimized by curses and kicks and placed in the trunk of the police vehicle, assaulted for 30 minutes. He was then put in the trunk of the police vehicle, as one of the officers attacked threw gas and pepper spray inside the trunk, confining him for 15 minutes, leading to his death. The bystanders who witnessed and filmed the incident, despite trying, could not intervene because they were threatened by the agents. The victim's wife, who arrived at the scene when Genivaldo was already inside the car, asked officers to open the trunk so he could breathe. He heard from the police officer a sarcastic answer: "He's better than us, inside he's ventilated."<sup>29</sup>

Survey, conducted by Portal Metr opoles on 01/06/2022, found other 24 cases filed in lawsuits in the last 11 years involving agents of the security force who threw pepper spray at suspects inside police vehicle trunks. Another journalistic investigation found court rulings with reports of 18 men who received pepper spray confined in police vehicles of different police forces in the last 12 years, in six different states. Another survey, conducted by Ponte, indicates that the torture "method" of using gas in car trunks is taught in training courses given to the Federal Road Police agents.<sup>303132</sup>

In addition to these cases reported in the media, the Annual Report of the Ombudsman of the Police of the State of S o Paulo for the year 2021, indicates the complaints made with the agency. Of the total of 4,951 open protocols, 8.62% were related to death due to police intervention; 7.01% for abuse of authority; 2.63% for aggression; 2.38% for threat; 1.17% for abusive approach; 0.21% for bodily injury; 0.26 for homicide; 0.10 for torture. That is, 1/4 of the complaints received by the ombudsman referred to human rights violations by security agents.<sup>33</sup>

## 7 - Custody Hearings

Custody hearings are procedures that aim to assess possible illegalities in flagrante arrests. The National Council of Justice (CNJ), through Resolution No. 213/2015, established procedures for holding custody hearings and from the Anti-Crime Law (Law No. 13,964/2019), the mandatory custody hearing was defined in cases of arrest in flagrante within 24 hours of the occurrence. According to CNJ data, from 2015 to the present date, 1,192,737 custody hearings have been

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<sup>29</sup> Available from: [https://www.noticiasominuto.com.br/brasil/1912114/3-policiais-agrediram-genivaldo-de-jesus-por-30-minutos-dizem-moradores?utm\\_source=rss-brasil&utm\\_medium=rss&utm\\_campaign=rssfeed](https://www.noticiasominuto.com.br/brasil/1912114/3-policiais-agrediram-genivaldo-de-jesus-por-30-minutos-dizem-moradores?utm_source=rss-brasil&utm_medium=rss&utm_campaign=rssfeed).

<sup>30</sup> Available from: : <https://www.metropoles.com/brasil/policias-de-ao-menos-11-estados-sao-acusadas-de-usar-gas-em-viatura>.

<sup>31</sup> Available from: <https://g1.globo.com/fantastico/noticia/2022/05/30/procedimento-que-matou-genivaldo-foi-usado-pela-prf-contra-pelo-minus-18-other-people.ghtml>.

<sup>32</sup> Available from: <https://ponte.org/tag/alfacon/>.

<sup>33</sup> Available from: <http://www.ssp.sp.gov.br/Ouvidoria/Arquivos/RelatANUAL2021.pdf>.

held throughout the country. In only 87,641 of them (7.3%), there were reports of torture/ill-treatment.<sup>34</sup>

Between June 2015 and May 2016, Conectas Human Rights conducted qualitative monitoring of custody hearings in a forum in the city of São Paulo in order to analyze the effectiveness of the procedure in cases of torture and other cruel, inhuman and degrading treatment (TCDD). Of the 393 cases in which evidence of TCDD was identified, 67% were black people. In only 34 of the cases, already at the police station, there was a formal record of the aggression suffered in the arrest report, in the other cases, there was an attempt to record the facts in order to exempt public security agents from any type of violence, as "had its integrity respected" or even "presents injury in the right eye, as a result of a fall suffered". On the side of the victims, there were cases in which, even if the aggression was evident, they chose not to denounce, or even justify, police violence.<sup>35</sup>

In the custody hearings, in view of the report of violence, in 1/4 of the cases, the magistrates did not ask for more details about the relevant assault. Agents of the Public Prosecutor's Office (MP) omitted to face 80% of these reports and when they intervened, 60% of the time, it was with the intention of delegitimizing the report. In 88% of the cases there was no request from the Prosecutor to investigate the complaint of violence. Agents of the Public Defender's Office intervened in 49% of the cases, presenting questions aimed at further exploring the complaints and requested the investigation of the complaint in 54% of the cases. In the 156 cases in which it was possible to identify the motivation for torture, 53% were to obtain confession, 36% to punish, 8% to impute crime and 3% to discriminate. At the end of the hearing, 72% of the cases were referred for investigation of the complaints.

In the State of Rio de Janeiro, the Human Rights Center (NUDEDH) of the Public Defender's Office produced a report in which it presents data on 1,250 cases of torture and other cruel, inhuman or degrading treatment or punishment reported to the institution between June 2019 and August 2020. Of the total number of victims, only two did not respond to criminal prosecution or representation. Most of the complaints (93%) were reported by the Custody Hearing Center, followed by the Presentation Hearing Center (6.3%). In 28.5% of the cases there was at least a complaint of psychological aggression and in 96.1% there was some physical aggression, such as butts, kicks, slaps in the face and suffocation with plastic bag. The place of the assault, in 816 cases, was the place of the fact. In 57 cases, it was at the police station, others were, for example, in the car, ambulance, inside the residence itself. The aggressions practiced by state agents (police, municipal guards, socio-educational agents and penitentiaries) correspond to 95.9% of the cases with information.<sup>36</sup>

Social profile of the victims:

- 96.1% cis men, 3.5% cis women, 0.4% trans people.

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<sup>34</sup> Available from: <https://paineisanalytics.cnj.jus.br/single/?appid=be50c488-e480-40ef-af6a-46a7a89074bd&sheet=ed897a66-bae0-4183-bf52-571e7de97ac1&lang=pt-BR&opt=cursel>.

<sup>35</sup> Available from: [https://www.conectas.org/wp-content/uploads/2017/12/2017\\_Tortura\\_Blindada.pdf](https://www.conectas.org/wp-content/uploads/2017/12/2017_Tortura_Blindada.pdf).

<sup>36</sup> Available from: <https://defensoria.rj.def.br/uploads/arquivos/d9d323058e344965a835833954fc5982.pdf>.



- 6.8% under 18 years, 52.8% between 18 and 25 years and 34.5% between 26 and 40 years.
- Of the records that report race (1,178), 79.9% are black.
- 89.3% did not complete elementary school.
- 84.7% reported exercising professional activity.

In an analysis of the judicial decisions of part of these cases (534), in 70.8% of the cases examined, aggression was claimed in one of the three procedural phases - custody hearing, interrogation or grounds of the sentence. However, the claims were not considered in the decision-making process, being only mentioned to disqualify the version of the victim or to affirm that the report did not confirm the alleged aggressions.

In relation to custody hearings, the Arns Commission participated in the report of the National Mechanism for Preventing and Combating Torture published in partnership with the Human Rights Commission of the Brazilian Bar Association (OAB-Pará) to denounce the very serious conditions of incarceration in Brazil and their effects on the health of people deprived of liberty, especially in prisons in Pará, with scenarios of serious abuses and allegations of torture.

## **8 - Torture and The Situation of Women in Prison, Including Family Members - States of Minas Gerais and Rondônia**

Data from the Maria Felipa Popular Advisory (APMF) and the<sup>3738</sup> Association of Relatives of Prisoners of Rondônia (AFP-RO) demonstrate the action of state security forces that do not have functional competence to act in prison facilities, but that enter prison units to commit torture and ill-treatment, in violation of the CAT and national legislation.<sup>39</sup>

In all Brazilian states there are state groups of public security agents whose formal function is to carry out special penitentiary actions to mediate alleged conflicts. These groups, whose nomenclature varies from state to state, are part of several Brazilian state forces. When acting

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<sup>37</sup> Report produced by Assessoria Popular Maria Felipa and by the Association of relatives of prisoners in Rondônia. Authors: Andreia Baeta, Ana Luiza Araújo, Fernanda Oliveira, Isabela Corby, Maria Cristina Ticuna, Thais Lima and Vitória Maria.

<sup>38</sup> A social impact organization that has been operating for six years within the agenda of preventing and combating torture especially among women prisoners in the state of Minas Gerais. In 2021, APMF was elected to compose the National Committee for the Prevention and Combat of Torture, a body linked to the Federal Government, which was created from Brazil's adherence to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman Treatment or Punishment or Degradants. Since 2022, the APMF has been funded by the United Nations Fund for Victims of Torture, with renewed funding in 2023.

<sup>39</sup> AFP-Ro is a collective that brings together women who are family members of prisoners in Rondônia, a state in the Brazilian Legal Amazon. AFP-RO works to fight the torture to which people deprived of their liberty and their families are subjected. The Association's leaders are Afro-indigenous women with a history of denouncing systematic torture carried out within the prison system. Over the past two years, the Association, together with the APMF, carried out the project "Families of Prisoners from Acre and Rondônia strengthening their network".

in prison, they often commit physical and psychological torture against imprisoned persons illegally. In most of these groups, the members of the groups wear black masks that cover the entire face, thus making it difficult for the victim to identify who the torturer is.

In Rondônia, the action of the Special Penitentiary Action Group (GAPE) when entering the units, under the argument of mediating alleged conflicts, carries out several degrading practices, on the premises of public institutions, under the approval of the security coordinators. The practices are the most diverse, and we should highlight some such as: mandatory nudity of custodians, who are forced to pick up items on the ground, letting their buttocks touch the private parts of agents as well as their weapons; lacerations on the faces of custodians, often causing loss of senses, such as vision, hearing or even in deaths after the actions of the group in the deprivation units.

On the part of this group, there is no uniform application of the guidelines contained in the Istanbul Protocol. Despite the various bimonthly complaints made, this practice continues, with the response of the Secretary of Justice of the State of Rondônia (SEJUS / RO), motivational lectures for security agents, without focusing on the effective accountability of those involved.

In Minas Gerais, the Rapid Intervention Group (GIR), despite being legally a group for intervention under exceptional circumstances, takes in fact part of the routine of prison units, as indicated by the National Mechanism for Preventing and Combating Torture. As in other units inspected, the GIR has made the withdrawal for sunbathing, a deviation of function considering the purpose of the grouping. This moment was described as extremely violent, marked by physical and verbal aggressions against people deprived of liberty. It was described that in the movement of people trapped by the corridor of the wards, the penal police/agents make a Polish corridor and beat people as they pass through the corridor.<sup>40</sup>

There were reports of arrested people being removed from the cell and taken to the radial where they were forced to drink detergent and urine from other trapped people who stay in this place waiting for movement. This event took place between February and March 2022. The arrested people involved have an open disciplinary procedure and the injured were treated in the unit's infirmary, including the case of people shot and with bruises on the head. Other people were transferred to other units.

There are also reports of isolation of detainee as part of punishment cells, mainly to hide those who are injured by torture committed by the GIR or by the penal police/agents.<sup>41</sup>

Access to justice for people in deprivation of liberty is challenging. Legal defense provided by the State is largely deficient - especially due to the number of defenders compared to the

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<sup>40</sup> Expression commonly used to name a narrow passage formed by two rows of people who stand side by side, one in front of the other, with the intention of punishing those who have to go through it.

<sup>41</sup> Inspection Report of prison and socio-educational units in Minas Gerais. Available from: [https://mnpctbrasil.files.wordpress.com/2022/08/relatorio-missao-mg-para-publicacao\\_compressed.pdf](https://mnpctbrasil.files.wordpress.com/2022/08/relatorio-missao-mg-para-publicacao_compressed.pdf).

number of prisoners and the structure of the Public Defenders' Offices. Courts are concentrated in large cities, and although the state and district Defenders are present in all major cities of the country, the number of defenders in these cities is still insufficient to reach the minimum adequate to cover the demand for the services of the Public Defenders. It is well known that large urban centers have high levels of crime, requiring the services of the Ombudspersons' Office to guarantee the rights of defendants and convicts, including actions related to adolescents in conflict with the law, as well as for the promotion of human rights more generally.<sup>42</sup>

In the case of people deprived of liberty, access to justice also extends to the prevention and combating of torture to which they are exposed, because they are in the prison system, exposed to an unconstitutional state of affairs. Both institutions that authored this report provide socio-legal care to persons deprived of liberty and family members and prisoners. In Rondônia, APMF and AFP-RO jointly carry out legal shifts to family members of persons deprived of liberty, as well as mobilization actions of these family members, and referrals of complaints of torture and violations of the rights of persons in deprivation of liberty. In Minas Gerais, APMF works especially with women in deprivation of liberty, managing the Solta Elas project.<sup>43</sup>

The judiciary is also a violator of the rights of persons deprived of liberty. Often, even when the legal requirements for granting a precautionary measure other than prison, arrestments in flagrante is converted into preventive detention. In some cases, pretrial detention that could be revoked is maintained for more than a year without even justification or even an instruction and trial hearing.

Women who are relatives of people deprived of their liberty are the people who first seek justice and denounce violations of rights suffered by their relatives, most of them being human rights defenders, since the fight against rights violations in prisons goes beyond the individual scope, being systemic. In this context, the restriction of contact with the family is an immeasurable recurrent psychic torture practiced by the State in the context of the prison system, being a form of curtailment of access to justice for imprisoned persons and also a way to hinder the performance of human rights defenders.

The restriction of contact between persons deprived of liberty and their relatives presents itself as a violation from the initial moment of arrest, when persons caught red-handed are referred to the police station or are arrested by means of arrest warrants, and from this moment on are prevented from communicating with family members about their state of arrest, hindering access to justice, and being a form of torture, since the person deprived of liberty is totally helpless.

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<sup>42</sup> II Map of State and District Public Defenders in Brazil. Available from: <https://www.anadep.org.br/wtksite/cms/conteudo/39420/2o-Mapa-das-Defensorias-Publicas-Estaduais-e-Distrital-no-Brasil.pdf>.

<sup>43</sup> The expression "unconstitutional state of affairs" was used in ADPF 347 by the Federal Supreme Court to define the constant state of illegalities present in the Brazilian Prison System.

Vexatious searches are routine in the Brazilian prison system and also end up restricting the contact of families with their relatives deprived of liberty. Women are the main victims of this type of torture, both the relatives of prisoners and women deprived of their liberty. In the vexatious magazine the victim is naked and is forced to perform totally naked squats with mirror directed to his private parts. These are moments of deep exposure of their bodies, including those of the adolescents who visit their relatives arrested and imprisoned.

In Minas Gerais, during the socio-legal meetings carried out by APFM with women prisoners, questions are asked based on the Manual for Preventing and Combating Torture and Mistreatment and the Istanbul Protocol, Chapter 2, in order to identify claims of torture. Torture is not always perceived by them as torture, and the non-perception of them is due to the fact that they are women who come from life trajectories full of violence, many already lived, even before prison, with state violence, especially that practiced by the police in the peripheries.

It is important to note that when torture with women is approach, it is make explicit that torture is any act that leads to suffering, pain, whether physical or psychological, as well as an act intentionally caused with the aim of obtaining information or even the confession of something that, a lot of the time, the woman didn't commit.

The most common acts of torture or ill treatment that women are subjected to and perceived in our care are: lack of access to water and food; restriction of contact with the family; beatings, threats of giving up children for adoption; use of tight handcuffs; sleeping in a police station among men; the presence of pregnant women in prison systems without any support to accommodate a baby; judges who do not appear on camera during the custody hearing (only speak by audio); mothers who cannot choose the name of their children for civil registration; transfer to prisons away from the family, as a form of punishment; high dosage of over-the-counter psychiatric drugs to dope the imprisoned woman; and the absence of freedom of expression in prison settings.

As for the occurrences recorded in the spaces of deprivation of liberty of Rondônia, even though the Pact for the Improvement of the Prison System of the State of Rondônia and the Survey of the Provisional Measures Granted by the Inter-American Cone of Human Rights were forged, with the organs of Criminal Justice after the massacre in the José Mário Alves House of Detention, known as "Urso Branco", in 2002, it denotes the deliberate non-compliance with some items and also the low or no effectiveness of the prevention policies defined in this instrument.

Overall in Brazil, there is an institutional resistance regarding the participation of family members and organized civil society in the spaces of discussion about the Prison System, often opposing the inclusion of civil society organizations in criminal enforcement bodies, which were created to meet the requirements of the federal legislation.

## 9 – The Situation of Homeless Population and Police Aggression

Another group that suffers directly from abuse and violence by public security agents and institutional omission is the homeless population. This population, which has disproportionately suffered the effects of the COVID-19 pandemic (hunger, poverty, lack of health services, etc.), have become particularly vulnerable to violence by the security system.

There is little systematized data on this population contingent and its invisibility aggravates its vulnerabilities. In a recent estimate, between 2019-2022, the acute period of the pandemic, there was a 38% increase in the number of homeless people in Brazil, with a total of 281,472. Based on data on compulsory notification of cases of violence identified in people assisted in health institutions, between 2015-2017, there were 17,386 occurrences against homeless people.<sup>44</sup>

Institutional discrimination is also present in this issue. The most affected age group is 15 to 24 years (38.1%), violence was more frequent against women (50.8%) and black people (54.8%). In 734 (4.2%) cases, the perpetrators of the violence were public security agents. News from 2012 illustrates this picture by reporting on sexual abuse, extortion and torture committed by military police against homeless adolescents in Brasilia. In addition to the cases of serious violence, quantified by requiring medical care, the vast majority of violations have little attention from society and the public power, which often aggravates the problem through hygienist policies. Examples of this are the policies of seizure of tents and reports of daily violence in São Paulo, such as the removal of belongings, including crutches, and the destruction of personal documents.<sup>454647</sup>

## 10 - Apology to Torture and the Military Regime (1964 and 1984) the Civil-Military Dictatorship by the Brazilian government

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Available

from:

[https://repositorio.ipea.gov.br/bitstream/11058/11604/4/NT\\_103\\_Disoc\\_Estimativa\\_da\\_Populacao.pdf](https://repositorio.ipea.gov.br/bitstream/11058/11604/4/NT_103_Disoc_Estimativa_da_Populacao.pdf).

<sup>45</sup> Available from: [https://noticias.uol.com.br/cotidiano/ultimas-noticias/2012/04/02/adolescente-que-vivem-nas-ruas-denunciam-abusos-sexual-cometados-por-pms-em-area-central-de-brasilia.htm?q=video+policia+abuse+sexualmente+de+dos+japonesa&sa=X&ei=P7r7T66PA8bNQWT\\_LiLBQ&ved=OCBQQFjAE/](https://noticias.uol.com.br/cotidiano/ultimas-noticias/2012/04/02/adolescente-que-vivem-nas-ruas-denunciam-abusos-sexual-cometados-por-pms-em-area-central-de-brasilia.htm?q=video+policia+abuse+sexualmente+de+dos+japonesa&sa=X&ei=P7r7T66PA8bNQWT_LiLBQ&ved=OCBQQFjAE/).

<sup>46</sup> Available from: <https://g1.globo.com/sp/sao-paulo/noticia/2023/04/03/nunes-diz-que-withdrawal-from-tents-of-residents-of-the-street-and-proposal-of-humanized-action-of-reception-of-the-prefecture-of-sp.ghtml>.

<sup>47</sup> Available from: <https://www.revistamissoes.org.br/2020/07/populacao-negra-que-vive-em-situacao-de-rua-e-a-maior-vitima-do-abuso-de-autoridade/>.

Between 2019 and 2022, there was, on the part of the Brazilian state, a systematic apology for the armed forces to celebrate the military regime in Brazil, a period in which torture was systematic against political opponents of the system. Various civil society organizations. The campaign, including media, was thorough, with the aim of modifying the rhetoric of the atrocities committed during the regime, contrary to the facts officially established by the report of the National Truth Commission. The Brazilian News Company, a public body, in 2019, published a note from the Spokesperson of the Presidency of the Republic, arguing that:

The president does not consider March 31, 1964 [as] a military coup. He considers that the society reunited, and realizing the danger that the country was experiencing at that time, came together, civilian and military. We were able to recover and put our country back on a course that, barring better judgment, if that hadn't happened, today we would be having some kind of government here that wouldn't be good for anyone."<sup>48</sup>

The UN Rapporteur on Memory, Truth and Justice, at the time, published a note condemning the act of the President of the Republic, claiming that "Any actions that could justify or condone gross human rights violations during the dictatorship would further reinforce the impunity that the perpetrators have enjoyed in Brazil, hinder efforts to prevent any recurrence of such violations and weaken the trust of society in public institutions and the rule of law."<sup>49</sup>

The celebration of the 1964 coup continued in the following years, promoted by the Brazilian State itself, sending a negative message to society of tolerance to the atrocities committed during the dictatorial period, including the systematic practice of torture, despite petitions sent by South American civil society. Such an act was a violation of the state's obligation to promote the fight against torture<sup>50</sup>. A country that has not yet paid its historic debt to eradicate torture, even after its democratization, must give an unequivocal message to the rejection of torture, perpetrated or tolerated by the state. In the new administration, the Ministry of Defense, in addition to not celebrating the 1964 coup, stipulated a punishment for the military who celebrates it. However, there remains the challenge of recovering the culture of respect for human rights within society, including the repudiation of torture in any of its forms.<sup>51</sup>

## 11 – Slave-like Labor

In recent years, there has been frequent dissemination in the media of people found in work analogous to slavery in Brazil. These are cases in which the submission of these people to degrading conditions is flagrant and which often involve physical and psychological torture. Recently, the country was horrified by the case of 207 workers who worked in the grape

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<sup>48</sup> Available from: <https://agenciabrasil.ebc.com.br/en/node/1375138>.

<sup>49</sup> Available from: <https://www.ohchr.org/en/news/2019/03/brazil-must-reconsider-plan-celebrate-military-coup-anniversary-says-un-expert>.

<sup>50</sup> Available from: <https://comissaoarns.org/pt-br/blog/organizações-pedem-a-onu-investigação-por-apologia-ao-golpe-militar/>.

<sup>51</sup> Available from: <https://www.cnnbrasil.com.br/politica/ministerio-da-defesa-nao-comemora-aniversario-de-golpe-militar-pela-primeira-vez-em-4-anos/>.

harvest in Bento Gonçalves (RS), having been recruited by a company hired by 3 large wineries in the region, most of them in Bahia. The news reports mention degrading conditions in the accommodations, exhausting working hours of 14 hours a day without breaks and even physical punishments that characterize torture: beatings, use of pepper spray and electric discharges with stun guns.<sup>52</sup>

According to the Labor Inspection Information and Statistics Panel in Brazil, from 1995 to 2022 6,602 establishments were inspected, with 60,251 workers having been found in conditions analogous to slavery, being 4,710 establishments with 46,779 workers in these conditions in rural areas and 1892 establishments with 13,472 workers found in urban areas. Chart 1 compiles the data available in this period.<sup>53</sup>

In recent years there has been a significant increase in the number of workers found in a situation analogous to slavery in rural areas. It is also worth mentioning the difference between the number of workers found in these conditions in each year and the number of workers effectively rescued in the inspections carried out. It is important to identify what leads to having found workers who are not rescued.

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<sup>52</sup> Available from: <https://noticias.uol.com.br/colunas/leonardo-sakamoto/2023/02/25/escravizados-na-producao-de-vinho-no-rs-recebiam-choques-e-spray-de-pimenta.htm>.

<sup>53</sup> Available from: <https://sit.trabalho.gov.br/radar/>.