

## **End of Mission Statement**

**United Nations Special Rapporteur on minority issues, Ms. Rita Izsák**

**Brasilia, 24 September 2015**

In my capacity as the United Nations Special Rapporteur on minority issues, I conducted an official visit to Brazil from 14 and 24 September, 2015. I visited Brasilia, and the states of Rio de Janeiro, São Paulo, and Bahia. Throughout my mission, I had the opportunity to consult broadly with hundreds of stakeholders.

At the government level I met with Federal Ministers and senior officials of the Ministries of Foreign Affairs, Education, Culture, Justice, representatives of the Secretariats of Human Rights, on Policies for Women, and Racial Equality, the National Institute for Colonisation and Agrarian Reform (INCRA) as well as State and Municipal level authorities including members of judiciary and police.

I also met with members of marginalised communities in favelas Santa Marta in Rio de Janeiro, and Brasilandia on the outskirts of São Paulo, and visited two Quilombos, Ivaporunduva (El Dorado Municipality, São Paulo State) and Pitanga Dos Palmares (Bahia). I met with Afro-Brazilian religious leaders and visited a Candomblé Teirrero and with representatives of the Muslim community, as well as religious leaders and members of other faiths. I met with members of the Roma (*Cigano*) community, and consulted with a wide range of representatives of civil society and social movements, political actors, academics, journalists, and representatives of United Nations bodies.

I would like to thank the Government of Brazil for facilitating and cooperating throughout this visit, and all of those who consulted with me, and in particular communities and individuals who shared information, their views and feelings with me.

### **Who are the minorities of Brazil?**

Brazilian society is highly diverse, and includes countless minority groups which have migrated throughout history, due to a wide range of factors including colonialism, slavery and targeted migration policies. Following Portuguese colonisation, the 16th Century saw Brazil import more African slaves than any other country. Following the abolition of slavery in 1888, official immigration policies to whiten the population were adopted, with approximately 5.2 million Europeans immigrating to Brazil, as well as significant Lebanese and Japanese communities, among others. Importantly, Brazil also has a notable Roma (*Cigano*) population estimated to be approximately 800,000.

In terms of religious diversity, while the country is predominately a Roman Catholic country, there are a number of minority religions in Brazil, including traditional Afro-religions including Candomblé and Umbanda, brought from Africa by slaves, and indigenous faiths.

Significant Buddhist, Jewish and Muslim communities are also present in Brazil, among others. There is also a fast growing evangelical movement.

Indigenous peoples constitute a minority within Brazil. However, given the specific international legal framework developed for the rights of indigenous peoples, I will not focus on the situation of indigenous peoples in Brazil.

Given this ethnic, racial and religious diversity, political discourse developed in the 20<sup>th</sup> century constructed the myth of Brazil as a ‘racial democracy’. Yet while it is true that some groups who migrated to Brazil were able to enjoy social and economic success, other groups, most notably the Afro-Brazilians, remain marginalised due to historically rooted patterns of discrimination against them, stemming from centuries of slavery, and racism. Regrettably, some of these attitudes persist and are pervasive in many spheres of social and political life. Indeed, throughout my mission, I observed that Afro-Brazilians are rarely represented in key public and private positions, have lower socio-economic indicators, and are strongly affected by structural problems such as extreme poverty, racial discrimination, exclusion, and marginalization. Poverty in Brazil has a colour.

Therefore, while afro-Brazilians do constitute a numerical majority in the country of Brazil with 51% of the population, they remain a political minority. For this reason, a large focus of my visit has been the situation of Afro-Brazilians, including traditional Quilombo communities and Terreiro African religious communities. I therefore view my mission as building upon the work of the United Nations Working Group of Experts on People of African Descent and their 2014 report on Brazil.<sup>1</sup>

During the course of my visit, I observed that Brazilian society seems set to experience further demographic changes. As Brazil gains economic strength, it is increasingly becoming a country of destination for migrants, as well as refugees and asylum seekers, who are often in vulnerable situations in society. I have learned of Bolivian communities, often working in low paid and even exploitative jobs, as well as Haitians, who have suffered particular violent attacks as well as many other new migrant communities. As these groups begin to establish themselves as part of Brazilian society, Brazil must remain attentive to their rights, in accordance with the UN Minority Declaration.

### **Legal Policy and Institutional Developments**

I have been pleased to learn about the various Government initiatives and policies to advance the rights of minority communities. In particular, I welcome the establishment of specialized Secretariats, currently with the same status of Ministries, on issues relevant for minority rights, including the Secretariat of Policies for the Promotion of Racial Equality (SEPPIR), the Secretariat for Human Rights and the Secretariat for Women’s Rights. In view of alleged forthcoming ministerial restructuring, I recommend that priority is given that these important ministries retain their status.

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<sup>1</sup> A/HRC/27/68/Add.1

I congratulate Brazil on its practice of collection of socio-economic data disaggregated by race which enables Brazil to take important steps in affirmative action policies, in particular for Afro-Brazilians and other minority groups through Decree 4886 (2003) and the Quota Law 12711 (2012). I very much welcome these policies, which I do believe will have important long term effects on increasing Afro-Brazilian participation and visibility in society.

I welcome the adoption of a series of dedicated, laws, plans and policies on poverty, injustice, racial inequality, including the adoption of the Statute on Racial Equality in 2010, and Law 10369 of 2003 establishing guidelines for teaching of Afro-Brazilian history and culture, among others.

Furthermore at the national level, a number of relevant mechanisms have been established, including a human rights hotline to report human rights violations and seek redress, and a national forum of police ombudsmen. These mechanisms are still very nascent, and should be strengthened and supported so that they can effectively and meaningfully carry out their mandate.

Several States have passed their own racial equality legislation, as well as established quotas of 20% for Afro-Brazilian in various public institutions and universities. I was impressed by the system of the Public Ombudsman in Bahia, elected by Civil Society Organisations, to bring issues of concern to the attention of State authorities, as well as the Nelson Mandela Referral Center to Combat Racism and Religious Intolerance, established by the Bahia State Secretariat for Human Rights, which through its platform brings together a range of actors to provide legal, psycho-social support for minorities. Such initiatives should be strengthened and replicated.

I welcome the active role played by the private sector, in particular through the S-System, a system of social contributions paid by companies in order to finance autonomous social services, which supports the development of community spaces and programs for marginalised communities.

It is also very important to acknowledge the significant developmental progress made by Brazil, with an estimated 25 million people brought out of extreme poverty. I am particularly impressed by the adoption of the various programs including the unconditional cash transfer programs, *Bolsa Familia*, *Minha Casa, Minha Vida*, and the establishment of the minimum wage, which was raised from 70 USD to 400 USD over the course of a few years. These achievements have certainly assisted many minority communities, and in particular Afro-Brazilians who are often the poorest and most marginalised.

I also congratulate Brazil for its harmonious inter-religious relations which widely prevail across the country, with the exception of the increasing intolerance against Afro-Brazilian religions, which I will discuss further below.

Additionally, I recognise that Brazil is taking some important steps regarding the *Ciganos / Roma*. A recent mapping project carried out by SEPIR indicates that Roma may be present

in as many as 337 municipalities, 196 of which already participating in social programs. Roma are also to be included in the next Multi-Year Plan (2016 – 2019), and outreach is being done to better integrate them into the Single Registry System which offers the opportunity for social benefits. Furthermore, SEPPIR has also developed an Inter-Ministerial Working Group on Roma, and a draft bill is currently before Congress which recognises the rights of Roma a specific minority group. The Ministry of Education have developed curriculum guidelines for travelling population. Finally, I have understood that next population census, planned to be held in 2020, will include a category for the Roma. This will be important to enable the Government to better understand the situation of Roma population in Brazil, and respond to their needs.

### **Gaps and Challenges**

While many of these initiatives are very significant, the gap between the legislative framework and the disadvantage facing many minority communities, and in particular Afro-Brazilians, remains stark. Poverty, injustice, discrimination and violence are everyday life experiences of black communities.

Therefore, though affirmative action programs are important, when hearing of a Quilombo child who needs to walk 5-6 kilometers just to reach the bus stop to travel to school each day where she or he can't perform well because of constant fatigue, or who is only offered 2 hours of class per day, even for students in the 9<sup>th</sup> grade, one wonders how such quotas will ever be met. For students in favelas, high rates of school drop outs, and high rates of crime, mean that youth have few dreams and life perspectives. Better investment needs to be made in community spaces and services, including education in black poor neighbourhoods and communities, to prevent youth from engaging into crime and violence and to motivate them to finish their education.

I am also truly shocked by the levels of violence experienced in Brazil on a daily basis. Regrettably this violence also has a clear racial dimension. According to data received, of the 56,000 homicides that occur per year, 75% are of black male youth, many of which are perpetrated by arms of the State including the military police. This reality has an important on women, in particular the mothers of these slain youths, who are not provided with any support or redress.

Compounding the violence itself, is the fact of the widespread impunity of these crimes, including those carried out by the State. I learned that fewer than 10% of all homicides in Brazil are investigated. One of the instruments enabling this behaviour is the so-called "resistance to arrest followed by death". Draft bill (4.471/2012) aims to put an end to this practice by creating various procedures for the preservation of crime scenes and conducting the investigation properly at the Federal Level. I strongly believe that the passage of this Bill into Law would mark a significant turning point in addressing the abuse of police power. However, this must be accompanied by other measures including the restructuring of the police force, the abolition of the military police and the establishment of independent ombudsman service to which police can be held accountable.

In this context I am also concerned about the consequences of the War on Drugs - as a cause and a consequence of violence against Afro-Brazilians. In particular, this approach has led to a sharp rise in the criminalisation and incarceration of Afro-Brazilians. Similarly, I am seriously alarmed at the proposed constitutional amendment, currently pending in Congress, to lower the age of criminal responsibility of children to 16 years instead of 18, which clearly contravenes the recommendations of the Committee on the Rights of the Child, and will further negatively impact Black youth.

### **The rights of Quilombo Communities**

The 1988 constitution and the enabling decree 4887 of 2003 were important symbolic steps recognising the rights of Quilombo communities to the demarcation of their lands and territories. Indeed, I am pleased that many Quilombo communities have their lands recognised and titled. Yet despite this commitment, I remain concerned at the slow pace of demarcation. INCRA, the responsible Federal Ministry, indicated that the cumbersome and somewhat technical procedures mean that demarcation processes regularly take up to 6 years. Furthermore, legal challenges to decisions made by INCRA mean that cases are often stalled before the courts for up to 15 years. At the current pace, it is estimated that it would take 250 years to fully demarcate all Quilombola lands. A more streamlined and efficient process which better involves communities and ensures speedy appellate procedures will be necessary to meet the promise of the 1998 Constitution.

I am also concerned by the lack of meaningful consultation with Quilombo communities about development projects taking place on their lands without their free prior and informed consent, many of which have grave consequences for communities and traditional livelihoods. I learned of the impacts of a prison placed near Dos Palmares Quilombo, which has brought not only negative social impacts, but also environmental with sewage from the place polluting the river, a key water source and source of livelihood for the community.

In Quilombo Ilha da Maré, a traditional fishing Quilombo, , development projects undertaken without the consent of the community, and permitted through inadequate environmental impact assessments, have led to the poisoning of their lands and waters, concentrations of heavy metals in water and soils, and high rates of cancer in their community, including deaths of young children. Furthermore, Quilombola women are particularly vulnerable to sexual and gender based violence, due to the influx of people and workers in their lands. Of immediate concern to me is the situation in Dos Macacos, where the installation of a Navy Base inside the community has divided the lands. Members of the community are left without access to their lands and livelihoods, and face serious daily abuse and violence by the Navy.

Significant efforts are needed to ensure that Quilombo communities are able to fully exercise their right to control over their land within the framework of a Brazilian State that is respectful of diversity, which means effectively participating in all decisions affecting them and their lands, in accordance with the Brazilian Constitution and ILO Convention 169.

Finally, I am aware that a pending legal challenge regarding the constitutionality of Presidential Decree 2433 of 2007, the enabling legislation allowing for demarcation of

Quilombola lands, may have significant impact on the recognition of Quilombo lands. Should the decree be held by the Supreme Court to be unconstitutional, there is serious danger of undoing all progress made in recognition of Quilombo lands.

### **Rising intolerance against Afro-Religions**

Brazil should be congratulated for cultivating an atmosphere of religious tolerance. For the most part, Brazil remains a diverse society with a high degree of religious tolerance. To date, there are no reports of systematic intolerance or hate acts against most religious groups.

One exception, however, are the reports of growing numbers of attacks against religious communities of African origin, such as Candomblé and Umbanda. Incidents include the burning of temples, desecration of Afro-religious symbols, and discrimination against peoples wearing traditional Afro-religious dress, including children in schools. I urge Brazil to take steps to ensure that Afro-Brazilian religions, are not only regarded as folklore or only cultural manifestation but are recognised as religions, and protected adequately and equally with other religions. Perpetrators of violence must be held accountable.

### **Role of the Media**

Additionally, a concerted effort needs to be made to raise awareness about the rights of minorities among the broader population, in order to change entrenched discriminatory attitudes and foster a sense of understanding and respect among all Brazilian citizens.

I have learned that media ownership is highly concentrated in the hands of few, with few positive representations of minorities, and in particular Afro-Brazilians. Communities voiced their repeated concerns about increasing criminalisation of Afro-Brazilians in the media.

### **Preliminary Conclusions**

In conclusion, I note that significant progress has been made on the policy and legislative level to combat the structural racism that continues to dominate Brazilian society. Indeed, given that many of these steps have only been taken in the past decade, I commend Brazil on the important work it has done to face its 500 year legacy of slavery, racism and injustice against key minority groups including Afro-Brazilians. I also acknowledge the very new but important work being done on Roma.

However, I am also aware that while many of the policies and programs developed may have important impacts in the long term, the Brazilian government must also develop some important short term measures to tackle the immediate problems facing communities in their daily lives. This is particularly true during this period, where in the face of increasing frustration by minorities, coupled with a serious political and economic crisis, there is a very real risk of regression in a number of areas concerning minority rights.

In this context I make the following preliminary recommendations to the Brazilian Government:

- Ensure the age of Criminal Liability is not lowered;

- Approve of Bill no. 4471 of 2012, which abolishes the "resistance or arrest followed by death" and similar mechanisms (*auto de resistência*);
- Restructure of the police force, abolish the military police and establish independent ombudsman service to which police can be held accountable;
- Pass the bill on Roma and take further steps to engage with this community;
- Secure swiftly and effectively Quilombo rights to lands and territories and uphold the principle of free, prior and informed consent;
- Take swift action against religious intolerance against Afro-religions, and hold perpetrators of violence directly accountable;
- Establish an independent Media Observatory;
- Strengthen affirmative action policies through investing in education for minorities from youth.

Further more detailed recommendations will be developed with the presentation of my full report to the UN Human Rights Council in Geneva, Switzerland in March 2016.

*Ms. Rita Izsák (Hungary) was appointed as Independent Expert on minority issues by the Human Rights Council in June 2011 and subsequently her mandate was renewed as Special Rapporteur on minority issues in March 2014. She is tasked by the UN Human Rights Council, to promote the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, among other things.*

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