

Rio de Janeiro, Brazil, January 31, 2023

Letter nº 10/23-JG

To the Members of the United Nations' Expert Mechanism on the Rights of Indigenous Peoples

Ref.: Report on the situation of militarized quilombola communities in conflict with the Brazilian Armed Forces.

Dear Members of the EMRIP,

Justiça Global would like to present with this report the serious situation of violations of territorial, cultural, and human rights and fundamental guarantees perpetrated by the Brazilian State through the Brazilian Armed Forces against the quilombola communities of Alcântara, Marambaia, and Rio dos Macacos in the States of Maranhão, Rio de Janeiro and Bahia, respectively.

I. A BRIEF HISTORICAL CONTEXT OF QUILOMBOLA COMMUNITIES IN BRAZIL

01. Quilombola communities, under the terms of the Brazilian legal system, are “ethnic-racial groups, according to self-attribution criteria, with their own historical trajectory, endowed with specific territorial relations, with a presumption of black ancestry related to resistance to the historical oppression they suffered”.¹ That is, they are communities whose historical and ancestral trajectory is related to resistance to oppression and racial violence generated by the process of European colonization and slavery.

02. Brazil abolished slavery in 1888, with the Golden Law, but it was only in 1988, that is, a century later, that these communities had their human dignity and citizenship recognized by the Brazilian State. Before that, they were subjected to institutional abandonment and violence of all kinds; excluded from social rights and public policies, notably, the right to property, despite its undeniable social, economic and cultural contribution to the formation of Brazil. Article 68 of the Temporary Constitutional Provisions Act (ADCT) of the Federal Constitution of 1898 (CF/88) imposes on the Brazilian State the duty to recognize, delimit, and title the lands occupied by quilombo communities.

03. However, institutional and structural racism – a legacy of the long process of slavery – still underpins the institutional treatment given to these communities, which suffer the bitterness of the denial of their right to property and the consequent lack of access to public policies.

04. There are, according to data from the Brazilian Institute of Geography and Statistics (IBGE), approximately 5,972 quilombola communities in Brazil. But this situation may still change when the data referring to the demographic census carried out in 2022 are

¹ Cf. Decree No. 4,887 of November 20, 2003, regulating the procedure for identification, demarcation and titling of lands occupied by remnants of quilombo communities referred to in art. 68 of the Temporary Constitutional Provisions Act. http://www.planalto.gov.br/ccivil_03/decreto/2003/d4887.htm

published. This was the first time in Brazil's history that the quilombola communities were surveyed by IBGE.

05. Despite this, official data expose the poor performance in the process of regularization of the territories of the quilombola communities, and of the 3,495 communities that have been certified by the Palmares Cultural Foundation (FCP), only 295 had their territories effectively titled by the National Institute of Colonization and Agrarian Reform (INCRA).

06. Three of these territories are a symbol of this institutional and structural racism and of the State's treatment towards the quilombola communities, namely, Alcântara, in the State of Maranhão; Marambaia, in the State of Rio de Janeiro, and Rio dos Macacos, in the State of Bahia. They have endured the inefficiency of the Brazilian State in regularizing the quilombola areas. For at least half a century these communities have waged land and social conflicts against the Brazilian Air Force and the Brazilian Navy, that is, the State itself acts as the violator of the rights of these communities, denying them the most elementary of rights: the right to collective property, in its full state, and access to public policies, as will be seen below.

II. QUILOMBOLA COMMUNITY OF ILHA DE MARAMBAIA, RIO DE JANEIRO

07. During the disgraceful period of slavery and the slave trade, the Marambaia Island served as a slave warehouse. The occupation of the island by the quilombolas dates back to the end of the 19th century, after the formal abolition of slavery.

08. The island remained in the quilombolas possession "peacefully" until the 1970s, when the military dictatorship handed over the island to the Brazilian Navy, to carry out military training and meet other interests of the corporation.

09. Since then, several restrictions and violations of the rights of quilombola residents on the Island have been registered, considering that the area became a training center for the Brazilian Navy marines.

10. On November 27, 2014, the Conduct Adjustment Agreement (TAC) was signed by ARQUIMAR and the Federal Government, based on paragraph 6 of article 5 of Law 7,347/85 (Public Civil Action Law). The TAC was ratified by the Federal Regional Court of the 2nd Region on April 8, 2015, within the scope of Public Civil Action no. 2002.51.11.000.118-2 proposed by the Federal Public Prosecutor's Office against the Federal Government and the National Institute of Colonization and Agrarian Reform (INCRA).

11. On October 8, 2015, property titles were issued by INCRA after an extensive process of community mobilization with the justice system bodies, but it was only on February 7, 2019, that six Pro-Indiviso (undivided) Collective Domain Recognition Titles were registered. These titles had been issued by INCRA in 2015, including six collective areas/properties, which totaled 52.9939 hectares of quilombola areas on the Marambaia Island.

12. Despite this, problems related to housing, access controlled by the military, lack of public transportation, healthcare, education, attempted population control of island residents by the Brazilian Navy, and military jurisdiction over quilombolas (who are civilians) living on the island continue to occur, contrary to what was agreed upon in the TAC.

13. For this reason, a complaint of the quilombola communities of Marambaia against the Brazilian State is being processed at the Inter-American Commission on Human Rights under number 14,969.

III. QUILOMBOLA COMMUNITY OF RIO DOS MACACOS, BAHIA

14. With regard to the community of Rio dos Macacos, the situation is no different. The community is located today in the municipality of Simões Filhos, the metropolitan region of Salvador, the capital of the State of Bahia. From the 17th century, sugar cane plantations and mills began establishing in the region. It was an industry that was heavily based on the use of slave labor. With the end of slavery in Brazil, many of these workers remained on the land. The quilombola community has existed for 200 years and is made up of approximately 87 families and 400 people.

15. The area of Rio dos Macacos became the object of legal and territorial disputes from the 1960s onwards when the City of Salvador donated the land where the community of Rio dos Macacos is located to the Brazilian Navy. In 1971, the Navy began construction of the Aratu Naval Base. Since then, residents have been forced to pass through a guarded entrance controlled by the military to enter the community and their homes.

16. There are records of violence of all kinds perpetrated by the military against the community. There have also been cases of homicides of leaders occurring within the community – located in the military area – and which were not duly investigated.

17. The territory was titled by INCRA in 2020, but still faces serious problems related to the right to water and the right to come and go, since the access to the community is still controlled by the military.

18. One of the biggest violations endured by the community of Rio dos Macacos is access to drinking water, given that the only source of water is located in a dam within the military area and under total control of the Navy, which does not allow access of residents in the area citing safety concerns.

19. Besides, the dam poses a risk of collapsing and causing severe damage to the lives of the community and its residents, which has already been repeatedly reported to various Brazilian authorities and the Inter-American System of Human Rights.

20. Like in Marambaia Island, problems related to healthcare access have also been registered in Rio dos Macacos. They are directly related to the control exerted by the Navy, which arbitrarily determines access to the community.

21. Due to the serious threats and constant violence, in 2020 the IACHR issued Resolution No. 44 within the scope of Precautionary Measure No. 1211-19 urging Brazil to adopt urgent measures to protect the Quilombo of Rio dos Macacos.

IV. QUILOMBOLA COMMUNITY OF ALCÂNTARA, MARANHÃO

22. The quilombola territory of Alcântara began to be constituted in the 19th century after the abandonment of plantations by the local aristocracy due to international crises in the cotton and sugar cane trade. Since then, these communities have settled in the region and consolidated a system of collective land use based on common values and interdependence, characterized by kinship. A set of territorialities was also sanctioned,

namely *terras de santo*, *santíssimo*, *terras de preto*, *terras de caboco* and *terras da pobreza*, which together form the quilombola identity. The municipality of Alcântara is home to one of the largest quilombola populations in the country, with over 200 communities. The municipality is entirely recognized by the FCP, however, it does not have a collective title to ownership.

23. In the 1980s, the military dictatorship, via decree of the Government of the State of Maranhão, compulsorily expropriated an area of 52,000 hectares. In order to build a space base for launching rockets in the region, 312 families belonging to 30 quilombola communities were expelled from their lands. The area was increased in 1991 by presidential decree.

24. The displaced families and communities were resettled in seven housing projects called *agrovilas* built by the military and to this day suffer the cultural, social, and economic impacts generated by the compulsory resettlement. The vast majority were never compensated for the damages.

25. Even after the re-democratization that took place in 1988, the Brazilian State, through its Air Force, has repeatedly insisted on the compulsory removal of over 800 families and 30 communities from the coast of the municipality of Alcântara to expand the space center. This meets the demands of other countries interested in launching rockets, satellites, or even space tourism from the base, due to the strategic location of the municipality of Alcântara in relation to the equator, which implies significant fuel savings in operations to launch rockets. To this end, Brazil has entered into international agreements with different countries.

26. The most recent is the 2019 Technology Safeguards Agreement (AST) between the governments of Brazil and the United States of America. Agreements of this type translate into a permanent threat of expulsion to these communities, which need to resort to justice to ensure permanence in their ancestral territory. In 2020, at the peak of COVID-19, the federal government issued a Resolution² to remove these communities from their land. Fortunately, it was later revoked.

27. The AST also provides for the use of the space base to carry out space tourism, that is, communities are expelled so that millionaires can be entertained, which, in our view, overturns the State's argument of national security, used to justify the arbitrary acts.

28. For no other reason, the quilombola communities of Alcântara have filed complaints against Brazil in the Inter-American Court of Human Rights of the Organization of American States and the International Labor Organization (ILO). The first complaint refers to violations resulting from the implementation and management of the space base, notably, due to the absence of ownership titles being granted to the communities. Given the legal uncertainty, this becomes part of the history of violations practiced by the Air Force against these communities. The second complaint stems from the absence, upon signing the AST, of prior, free, and informed consultation with the communities, under the terms of Convention No. 169 on Indigenous and Tribal Peoples of the International Labor Organization (ILO).

29. Unlike the communities of Marambaia and Rio dos Macacos, Alcântara does not have a title to ownership, although the titling process has completed all the stages and

² See: Resolution No. 11 of March 26, 2020, published in the Federal Official Gazette on 03.27.2020. Available at: www.in.gov.br/en/web/dou/-/resolucao-n-11-de-26-de-marco-de-2020-249996300

procedures required by law and by Decree 4887/2003, and has not even been the object of judicial challenge by the Brazilian state or third parties.

30. Despite this, the bodies in charge of regularizing and titling the territory did not do so in order to serve the interests of the Brazilian Air Force and foreign countries.

V. CONCLUSION: MILITARIZATION, RACISM, AND THE DENIAL OF RIGHTS AND PUBLIC POLICIES.

31. In the three situations presented in this document, we have victims of the Brazilian civil-corporate military dictatorship in power between 1964 and 1985. The military undertakings carried out by the Brazilian Armed Forces – in this case, the Air Force and the Navy – which at the time occupied the territories of these communities, were only possible due to the military dictatorship.

32. Despite the re-democratization that took place in 1988 with the new Federal Constitution, these communities still live under military tutelage and authoritarianism. Even in the case of communities that have already received titles, the Brazilian Armed Forces directly interferes with the ways of life of these communities. These cases show that there was no effective democratic transition in the country, as the communities are still under military tutelage.

33. Such an affront is carried out with total leniency by the Federal Government, which has done almost nothing to protect the rights of these communities since the 1970s. The violations of guarantees and fundamental rights to which these communities are exposed since the dictatorship reveal their abandonment by the Brazilian State. The contempt of the Armed Forces has, as its main consequence, the interference in the ways of life of communities and the denial of the full right to ownership and quality public policies.

34. The situation shows the institutional racism operated by the military since the dictatorship. The argument of defending national sovereignty, championed by the armed forces, cannot be used to violate the rights and lives of fellow citizens and nationals. There is no defense of national sovereignty at the expense of a people – the quilombolas – whose history is undeniably one of constructing the national identity.

35. We, therefore, ask this Expert Mechanism consider recommending the Brazilian State, and other States with similar contexts of militarization, to: implement effective measures to fully protect these communities and ensure the full, adequate right to collective ownership; create safeguards as to prevent the Armed Forces from interfering in the ways of life and from occupying the territories of traditional communities; and, in cases involving transitional justice, a formal apology to the affected communities by the State.

Yours sincerely,

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