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Working Group on the Universal Periodic Review

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### Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

#### Brazil<sup>\*,\*\*</sup>

The present report is a summary of 47 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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\* Late submission.

\*\* The present document was not edited before being sent to United Nations translation services.

## **I. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles**

N/A

## **II. Information provided by other stakeholders**

### **A. Background and framework**

#### **1. Scope of international obligations**

N/A

#### **2. Constitutional and legislative framework**

1. Joint Submission 3 (JS3) noted that in 2011, the Congress had received a Bill on the establishment of the National System for Prevention and Fight against Torture in compliance with OPCAT.<sup>2</sup> However, JS3 expressed concerns regarding the method of selection of the members of the mechanism that could compromise its independence.<sup>3</sup> Noting that some states had passed legislation for the creation of state-level preventative mechanisms, Amnesty International (AI) underlined that a lack of resources hindered implementation.<sup>4</sup>

2. Regarding citizens' access to public information, Human Rights Watch (HRW), Article 19, AI and the World Alliance for Citizen Participation and the Commonwealth Human Rights Initiative (CIVICUS) acknowledged the adoption, in 2011, of a law expanding public access to information.<sup>5</sup> Article 19 noted however that it had failed to establish an independent enforcement body.<sup>6</sup> A similar concern was expressed by CIVICUS.<sup>7</sup>

3. Joint Submission 9 (JS9) indicated that a Bill on the protection of personal data, open for public consultation in 2011, had not protected online personal data from inappropriate collection and retention. It recommended that the new law take into account General Comment 34 of the Human Rights Committee.<sup>8</sup>

4. Regarding the draft cybercrime legislation (PL 84/99), pending approval by the Congress in 2011, JS9 noted that Internet intermediaries such as Internet service providers and online platform providers would be obliged to collect and retain users' personal data for extended periods of time, stressing that it would interfere with citizens' rights to free expression and privacy.<sup>9</sup> Article 19 expressed similar concerns and added that the bill would oblige Internet service providers to inform authorities about any possible crime that may have been committed through services provided under their responsibility. Article 19 added that this affect the free flow of information online.<sup>10</sup>

5. Joint Submission 15 (JS15) reports that the legal system provides mechanisms, particularly in civil and administrative law, to hold companies accountable for human rights violations. But the fact that these mechanisms exist on paper does not mean that they have actually been used, or that they have been effective in changing behaviour at companies responsible for violations. JS15 recommends strengthening the monitoring mechanisms for the Terms of Behaviour Adjustment (TAC).<sup>11</sup>

### 3. Institutional and human rights infrastructure and policy measures

6. JS3 noted that Brazil lacked institutions compliant with the Paris Principles and that civil society organizations had found little space for human rights in the political arena.<sup>12</sup> According to Joint Submission 11 (JS11), the former undermined independent monitoring by the human rights treaties.<sup>13</sup> AI stressed that legislation to create the Conselho Nacional de Direitos Humanos had been pending since 1994 and did not guarantee independence from the Executive.<sup>14</sup>

7. Joint Submission 5 (JS5), AI, and Plataforma DHESCA Brasil (PDB) acknowledged the adoption, in 2009, of the Third National Human Rights Plan (PNDH-3) prepared in partnership with civil society.<sup>15</sup> However, PDB noted that since the PNDH-3 had incorporated controversial issues for the Brazilian society it was partly modified.<sup>16</sup> The Institute for Development and Human Rights (IDDH) acknowledged efforts through the PNDH-3 but added that with no adequate legislation, the goals established in the plan would never be monitored or complied with in a transparent way.<sup>17</sup>

8. JS5 adds that in December 2011 the two-year plan referred to in PNDH-3 had not yet been published, nor had there been any progress in its open, public implementation, monitoring and evaluation.<sup>18</sup>

9. JS5 reports that not enough has been done to establish indicators capable of guiding the development of public policy.<sup>19</sup>

10. Several organizations have discussed the impact of development projects (Growth Acceleration Programme – PAC-1-2) on public policy and the human rights situation.<sup>20</sup> Joint Submission 17 (JS17) points out that the budget for human rights has been reduced by 30 per cent compared with 2010, undermining the Programme to Combat Sexual Violence, and recommends that the public resources made available to fund projects benefiting children and young persons should be proportionate to the country's economic growth.<sup>21</sup> The National Association of Centres for the Defence of Children's Rights (ANCED) expresses similar concerns and adds that the north of the country (Rondônia, Tocantins and Pará)<sup>22</sup> has suffered the most from violence against children. JS5 asserts that the Growth Acceleration Programme needs a proper yardstick for assessment and should be subject to social oversight.<sup>23</sup>

### III. Cooperation with human rights mechanisms

11. AI stated that Brazil had failed to establish mechanisms for monitoring and evaluating its compliance with international human rights standards and to produce a yearly national human rights report. It added that a system of human rights benchmarks had yet to be instituted.<sup>24</sup> According to JS9, so far, the development of human rights indicators had failed to adequately take into account the need to monitor internet related human rights. It added that gender and race aspects must be taken into account as cross cutting issues when designing indicators.<sup>25</sup>

12. IDDH reported that Brazil had not established a national plan for the implementation of international and regional human rights recommendations despite Brazil's voluntary commitment to that effect during the UPR First Cycle in 2008.<sup>26</sup>

13. Franciscans International (FI) noted that despite advancements in recognizing the nature and urgency of the situation of human rights defenders, the State had been reluctant to cooperate with international and regional mechanisms in that regard.<sup>27</sup>

**A. Cooperation with treaty bodies**

N/A

**B. Cooperation with special procedures**

N/A

**C. Implementation of international human rights obligations**

**1. Equality and non-discrimination**

14. JS5 points out that women continue to earn less than men and constitute the majority of workers in the informal sector and the majority of persons lacking social protection. Racism makes the situation worse for black women.<sup>28</sup>

15. Joint Submission 24 (JS24) noted that in 2010 two laws were promulgated, one at Federal level and the other in the State of Sao Paulo, that established the Statute of Racial Equality aimed at combating discrimination and guaranteeing to the black population equality of opportunities. JS24 advised that these needed to be associated with public policies, particularly social and economic inclusion policies.<sup>29</sup>

16. Joint Submission 1 (JS1) reported the persistence of large disparities in schooling attainment between urban and rural children as well as discrimination between black and white students. It added that the average of years of study for black students belonging to the 7-14 year-old group was 3.78 years versus 4.43 for white students.<sup>30</sup>

17. Joint Submission 2 (JS2) points out that, despite moves by the executive branch and judicial decisions to uphold the rights of lesbian, gay, bisexual, transsexual, transgender and/or intersex (LGBTI) persons, those rights have not been fully implemented.<sup>31</sup> It reports a recent increase in the dissemination of hate speech against LGBTI persons and regrets the discontinuation of the “Schools without Homophobia” project.<sup>32</sup> It adds that prejudices relating to sexual orientation and gender identity are still evident within the health-care system, and recommends policies to safeguard all aspects of the health of transvestite, transgender, and transsexual persons.<sup>33</sup>

**2. Right to life, liberty and security of the person**

18. JS3 noted that the military and civil police had continued executing people, and that they invoked “resistance followed by death”. JS3 further stated that police officers had formed death squads to execute the “marked for death”- ex-prisoners, drug addicts and all others deemed “harmful to society”-. It reported that a group known as “Ninjas” had committed several extrajudicial executions in Santos in April and May 2010.<sup>34</sup> AI informed that in February 2011, in the state of Goias, the federal police operation *Sexto Mandamento* led to the arrest of 19 military police officers, accused of involvement in death squads.<sup>35</sup> HRW recommended linking the disbursement of federal funds for state programmes to benchmarks mandating a reduction in killings by police officers. It further recommended increase in the involvement of the federal police in efforts to counter militias and death squads, particularly when states are unwilling or unable to address the problem.<sup>36</sup>

19. AI stated that policing continued to be discriminatory and abusive in the context of military-style operations. It noted the lack of effective systems for registering, investigating, and monitoring cases of excessive use of force by the police. CIVICUS indicated that despite efforts by the Government to establish institutions to make the police accountable, excessive use of force and police complicity in human rights violations

continued.<sup>37</sup> While acknowledging positive steps taken in Sao Paulo and Brasilia, HRW noted that justice and elected officials who had investigated cases of violence by police officers faced threats and recommended further steps to implement and ensure that police who committed abuses are held accountable, in line with what was recommended during the first UPR review (recommendations 2 and 3).<sup>38</sup>

20. Justiça Global (JG) considered that the most important aspect of the public safety transformation in Rio de Janeiro in recent years had been the establishment of Police Pacification Units – PPU, and the presence of security forces in communities. In spite of the publicized success of the PPU, denunciations of abuse had been made, notably warrantless invasion of homes, arbitrary searches, and violent confrontations. Furthermore, the process of installing PPU had proven to be extremely violent. At the end of 2010, almost 40 people had been killed in crossfire in Rio de Janeiro.<sup>39</sup>

21. HRW noted that further efforts were needed to improve prison conditions. It added that the situation in many prisons remained violent and was characterised by severe overcrowd.<sup>40</sup> Almost half of all inmates were in pre-trial detention and prisoners' access to medical care remained inadequate.<sup>41</sup> In 2009, the Inter American Commission for Human Rights (IACHR) granted precautionary measures for the persons deprived of liberty in the Polinter-Neves penitentiary (State of Rio de Janeiro) and requested, *inter alia*, to ensure medical attention and avoid the transmission of contagious diseases through a reduction of the overpopulation.<sup>42</sup> For AI, little progress had been made since 2008 as prisons continued to suffer from corruption and inadequate structures.<sup>43</sup> PDB stated that most of the prison units were places of multiple violations of rights regarding health, food and legal assistance among others.<sup>44</sup> JS3 expressed similar concerns.<sup>45</sup>

22. Joint Submission 4 (JS4) states that, despite the guidelines adopted in 2010 on education for persons deprived of their liberty, few real advances have been made in terms of educational opportunities.<sup>46</sup>

23. Regarding the female inmate population, FI noticed sex/gender-specific violations that included the placement of females in cells with male prisoners; sexual abuse of female inmates by prison staff; deficient health services; failure to address questions related to maternity and childcare.<sup>47</sup> AI stated that across the country, cases had been reported of women and juveniles detained with adult males and suffering violence and sexual abuse.<sup>48</sup> JS3 and PDB also expressed concerns about the inadequacy of the female prisons facilities.<sup>49</sup>

24. JS3 stated that torture and ill-treatment in prisons had been routinely used. It noted that ACAT-Brazil had continued receiving allegations of torture committed by police and prison officers.<sup>50</sup> It had also identified several cases of torture, abuse, and subjection to inhumane treatment of adolescents in units for young offenders.<sup>51</sup>

25. JS5 states that although some of the targets set for 2008–2011 under the policy to combat violence against women have been met, such violence still occurs.<sup>52</sup>

26. Joint Submission 22 (JS22) expresses concerns about psychiatric confinement, particularly of street children, in Rio de Janeiro, São Paulo and elsewhere. It recommends the closure of the Experimental Health Unit (Unidade Experimental de Saúde) in São Paulo.<sup>53</sup>

27. COLCGS stated that sexual exploitation in its various forms including pornography, prostitution, sex-tourism and trafficking for the purpose of sexual exploitation remained a problem. It added that poorer, less educated, and marginalised young women were more likely to become victims of traffickers.<sup>54</sup>

28. JS1 expressed concern about the high number of children living in the street situation where they remained vulnerable to abuse, including sexual abuse, and other forms of exploitation.<sup>55</sup>

29. The Congregation of Our Lady of Charity of the Good Shepherd (COLCGS) acknowledged some progress in the prevention of trafficking in persons over the past four years. However, it observed the absence of systematic actions or uncoordinated actions among the education, health, social security, and tourism sectors to develop effective prevention.<sup>56</sup>

30. While acknowledging a bill submitted to Congress in 2010, prohibiting corporal punishment, Global Initiative to End All Corporal Punishment of Children (GIEACPC), noted that it remained legal in the home, schools, penal institutions and alternative care settings.<sup>57</sup>

31. The Company of the Daughters of Charity of St. Vincent de Paul (CDC) recommends that in the lead-up to the Olympic Games (2012) and the Football World Cup (2014) the State should increase its budget for the elimination of child labour.<sup>58</sup>

32. The International Commission of Jurists (ICJ) stated that, although slave labour is criminalised, prosecutors had found it difficult to prosecute this practice due to lack of coordination with the Ministry of Labour, responsible for carrying out workplace inspections.<sup>59</sup>

### **3. Administration of justice, including impunity, and the rule of law**

33. AI stated that the transfer of the investigation and prosecution of human rights crimes to federal jurisdiction had remained slow and cumbersome. It added that while some public defenders' offices had been created in some states, the criminal justice system remained discriminatory, and many detainees, often poor afro-descendants, spent long periods in pre-trial detention or remained detained following the completion of their sentence.<sup>60</sup>

34. Article 19 welcomed the creation, in 2011, of the Truth Commission to investigate human rights violations that occurred between 1946 and 1985. It noted, however, that perpetrators would not be prosecuted due to the Amnesty Law (1979) that remained in force.<sup>61</sup> AI informed about a pending Bill reinterpreting the Amnesty Law.<sup>62</sup>

35. According to JS5, the establishment of the National Truth Commission indicates a tendency to prioritize national reconciliation at the expense of justice for the victims.<sup>63</sup>

36. In April 2010, the Federal Council of the Order of Lawyers of Brazil (CFOAB) brought a case concerning the Amnesty Act before the Federal Supreme Court, pointing out that the Court had confirmed that crimes committed during military regimes were covered by the amnesty.<sup>64</sup>

37. In 2010, in *Gomes Lund and others vs. Brazil*, the Inter-American Court of Human Rights declared that the Amnesty Law that prevented the investigation and punishment of serious human rights violations was not compatible with the American Convention on Human Rights.<sup>65</sup>

38. The Center for Justice and International Law (CEJIL) expressed concern about the lack of official information available; and the absence of investigation and accountability for human rights violations committed during 1964-1985. It added that Brazil should be asked about the adequacy and effectiveness of measures taken in this regard.<sup>66</sup> Similar concerns were expressed by Associação Juízes para a Democracia (AJD).<sup>67</sup>

39. Marist International Solidarity Foundation (FMSI) stated that not enough had been done in the area of juvenile justice and recommended greater public investment in

preventive actions and proper judicial proceedings for adolescents. FMSI further recommended taking steps to reduce delays in processing children in protected households to improve the resolution of adoption cases or the withdrawal of parental custody.<sup>68</sup> In 2009, IACHR granted precautionary measures for adolescents deprived of liberty in the Socio-Educational Internment Facility-UNIS, and asked the Government to adopt measures to prevent deaths and acts of torture in the facility.<sup>69</sup>

#### **4. Right to marriage and family life**

40. JS1 noted the persistence of high levels of unregistered children in the north and northeast of the country.<sup>70</sup>

41. Joint Submission 2 (JS2) reports that in 2011 the Supreme Court recognized same-sex unions. However, there is still no proper legislation recognizing the right of same-sex couples to marry and form a family on an equal footing.<sup>71</sup>

#### **5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

42. Joint Submission 4 (JS4) contends that religious education in public schools and the growth of certain fundamentalist religious denominations threaten the right to religious freedom, affecting religions with African roots in particular.<sup>72</sup>

43. Joint Submission 6 (JS6) recommended respect for the principle of secularism of the State and the end of religious education in public schools.<sup>73</sup>

44. The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights condemned the murders of seven journalists between October 2010 and November 2011.<sup>74</sup> Article 19 noted that standards of pluralism and diversity of the media had failed and was concerned about the use of desacato laws, defamation cases, and violence against journalists, particularly in the North and Northeast.<sup>75</sup>

45. JSS indicates that licences for community radio stations have been used as a political tool and a bargaining chip, and that the concentration of ownership of radio and television concessions remains a concern.<sup>76</sup>

46. Front Line Defenders (FLD), while acknowledging efforts to strengthen the National Programme for the Protection of Human Rights Defenders (NPPHRD), stated that the majority of defenders at risk had not had access to State protection, especially in the north.<sup>77</sup> AI noted that legislation to confirm the status of the NPPHRD had yet to be passed.<sup>78</sup> CIVICUS added that the NPPHRD lacked coordination between state and federal agencies and JS3 noted that the NPPHRD did not work in all States.<sup>79</sup> FI considered that the NPPHRD had not received enough priority and political will to create an effective and efficient structure for implementation.<sup>80</sup> Joint Submission 16 (JS16) recommended, among others, expanding NPPHRD's partnerships, allocating it enough budget, more effective coordination, and the adoption of the bill on the NPPHRD status/institutionalizing the NPPHRD.<sup>81</sup> GAJOP recommended strengthening the policy for the security of human rights defenders.<sup>82</sup>

47. CIVICUS stated that civil society activists working to protect the environment and the rights of indigenous peoples and landless workers had faced enormous risks. Reference was made to cases (20102011) in the States of Para and Rodondia.<sup>83</sup> Joint Submission 18 (JS18) expressed concern about the murder of the Kaiowá-Guarani leader in November 2011 (Mato Grosso do Sul).<sup>84</sup>

48. CIVICUS also expressed concern for human rights defenders working on police accountability issues, mentioning the murder of a human rights defender found dead on a

farm in Tocantins State, in February 2011. It added that he had previously reported threats to his life.<sup>85</sup>

49. Joint Submission 23 (JS23) expressed concerns about threats against witnesses, family members, and human rights defenders in the process of investigating the murder of a human rights defender which had occurred in 2009.<sup>86</sup>

#### **6. Right to work and to just and favourable conditions of work**

50. JS24 stated that despite the reduction of inequalities between blacks and whites in the labour market, the 2010 Summary of Social Indicators (SIS), had revealed that the average salaries of black people were lower, and the percentage of blacks employed informally was higher.<sup>87</sup> JS1 indicated that salaries for blacks were 50% lower than whites because of lower educational level and of racial discrimination.<sup>88</sup>

#### **7. Right to social security and to an adequate standard of living**

51. JS5 notes that poverty has diminished but inequality persists.<sup>89</sup> Gabinete de Assessoria Jurídica as Organizações Populares (GAJOP) recommended the intensification of efforts to reduce poverty.<sup>90</sup> With regard to the agrarian reform programme, JS5 points out that despite advances in agrarian reform the concentration of land holdings still continues. It adds that the National Institute of Agrarian Reform needs State support to fulfil its mission effectively.<sup>91</sup>

52. Regarding the 2014 World Cup and the 2016 Olympics, PDB stated that an urban restructuring in the host cities lead to displacements and forced evictions.<sup>92</sup> AI indicated that large-scale development projects had left poor communities vulnerable to intimidation and forced evictions. It recommended giving residents full and timely information about proposals affecting them; engaging in a genuine negotiation with the communities to explore all alternatives to eviction; and, where necessary, offering compensation or alternative adequate housing close to the existing communities.<sup>93</sup> The National Coalition of World Cup and Olympics Popular Committees (NCWCOPC) recommended regulations and procedures to prevent forced evictions, discrimination and harassment against local populations. It further recommended protecting and guaranteeing social rights, starting with public investments in education, culture, jobs creation, income, security and housing.<sup>94</sup>

#### **8. Right to health**

53. JS5 states that the maternal mortality rate is a reflection of a series of problems facing the Unified Health System. It also points out the need to address the inadequacy of the budget allocated for health care, management problems, and the criminalization of abortion.<sup>95</sup>

54. Joint Submission 12 (JS12) noted that maternal mortality remained high, mostly affecting poor, black women and agricultural workers. It recommended giving priority to the implementation of CEDAW recommendations regarding the decision on the Alyne Silva Pimentel case. JS12 further recommended the enactment of legislation protecting gender equality and women's rights to privacy and confidentiality during police investigations of clandestine abortion clinics, and guaranteeing human rights principles of presumption of innocence, due process, and legal defence, especially for women belonging to vulnerable groups.<sup>96</sup>

55. JS9 was concerned by conservative groups' attempts to block access to information on medicines used in abortion.<sup>97</sup> *Comissão de Cidadania e Reprodução (CCR)* expressed similar concerns and recommended disseminating scientific evidence that supported the use of misoprostol as well as correct instructions for its use in the context of publicising sexual and reproductive health.<sup>98</sup> Joint Submission 7 (JS7) recommended improving women's

access to safe abortion care and to take measures to protect women's human rights to health and reproductive self-determination by providing access to information and services instead of increasing investigations and prosecutions.<sup>99</sup>

56. World Vision (WV) stated that although Brazil was likely to achieve the Millennium Development Goal 4 (reduction of child mortality by two thirds), health inequities were still a major problem and child mortality was still affecting the most marginalized groups.<sup>100</sup>

57. Joint Submission 13 (JS13), recognizing the Government's positive response to HIV/AIDS, points out that the rights to health care and treatment of persons living with HIV/AIDS are increasingly being violated. It cites as examples late diagnoses of infection, difficulties in accessing the Public Health System, and the lack, discontinuation and fragmented distribution of medicines. It recommends health policies to facilitate the early diagnosis of HIV infection.<sup>101</sup>

58. Joint submission 10 (JS10) recommended setting up a transparent mechanism through which civil society can follow-up production, buying and distribution of antiretroviral medicines.<sup>102</sup>

## 9. Right to education

59. JS4 highlights: the adoption in 2008 of an act regulating teachers' salaries in public basic education schools; the extension in 2009 of the age range during which education is compulsory; and the adoption in 2010 of a resolution on education for young persons and adults deprived of their liberty.<sup>103</sup> It indicates, however, that these advances have not been sufficient to eliminate inequality, discrimination and racism.<sup>104</sup>

60. JS1 welcomed improvements in the area of access to education, in particular regarding attendance rates in primary and secondary education thanks to the increased public spending on education (5.2% of GDP). JS1 added that while access to education had become more equitable over the past 15 years, there had been a persistent gap in learning levels and graduation rates between rich and poor, and blacks and whites.<sup>105</sup>

61. JS6 suggested questions for the UPR review about gender indicators, prevention of violence, homophobia and teaching Afro-Brazilian culture, and recommended, among others, targets for equalization in the new National Education Plan (2011–2020).<sup>106</sup>

## 10. Cultural rights

62. The Coalition of Advisory Organizations to the National Coordination of Articulation of Black Rural Quilombola Communities (CONAQ) acknowledged the Preservation, Promotion and Access Programme within the Ministry of Culture but regretted that it did not describe how sustainable development would be interpreted.<sup>107</sup>

## 11. Persons with disabilities

63. JS11 reported that, in 2011, the Government instituted the National Plan of the Rights of Persons with Disabilities but expressed concerns regarding the official Portuguese version of the Convention on the Rights of Persons with Disabilities which could lead to misconceptions about who may be considered a person with disability.<sup>108</sup>

64. JS1 further informed that persons with disabilities were still suffering discrimination in access to employment despite existing quotas in the public and private sectors.<sup>109</sup>

65. JS4 states that it has not been determined how persons with disabilities are to be brought into the education system. The infrastructure in public schools falls far short of what is desirable for proper inclusion.<sup>110</sup>

66. JS1 indicated that public schools were not equipped for children with disabilities. It added that children with disabilities belonging to poor families had no access to private schools and faced financial barriers to exercise their right to education. These children had not been adequately assisted by the State and had suffered a lack of medication and support to travel to health care facilities.<sup>111</sup>

## 12. Minorities and indigenous peoples

67. JS5 points out that the State, in addition to ensuring the land rights of indigenous peoples, Quilombolas and other traditional peoples, must also enable them to live in safety by establishing effective crime prevention mechanisms.<sup>112</sup>

68. CONAQ was concerned by the Quilimbola communities' situation, particularly in Charco where community members had been exposed to tensions, assassinations, and death threats.<sup>113</sup>

69. PDB stated that the PAC had included the accomplishment of several infrastructures which involved the expropriation of territories and the destruction of ways of life of traditional peoples and communities, particularly the construction of the hydroelectric plants of Jirau and Santo Antônio in Rondônia; the process of licensing of the dam of Belo Monte in Pará; the transposition and the construction of dams on the San Francisco river in Pernambuco; and the extraction of uranium in Bahia.<sup>114</sup> Front Line Defenders (FLD) expressed similar concerns and added that those working to promote and protect the rights of indigenous communities had been exposed to further risk of stigmatisation, attack, and persecution.<sup>115</sup> The Society for Threatened Peoples (STP) said that the PAC had not assessed its impact on the rights of indigenous peoples and of their environment.<sup>116</sup> It added that protection status of indigenous territories and natural reserves had been weakened in order to facilitate exploitation of natural resources.<sup>117</sup>

70. Joint submission 19 (JS19) reported that large hydroelectric dams construction generated a situation of systematic human rights violations by often ignoring indigenous rights to free, prior, and informed consent and consultation, and by relying on incomplete or faulty environmental impact assessments. It further stated that the construction of the Madeira River Hydroelectric Complex Project had negatively affected the lives and rights of many indigenous peoples, including those in voluntary isolation, and traditional communities.<sup>118</sup>

71. Joint Submission 20 (JS20) and other organizations expressed concerns regarding the case of the Belo Monte dam project and the rights of the Xingu community in the Amazon.<sup>119</sup> Regarding Precautionary Measures 382/10I, the IACHR requested, in July 2011, among others, to protect the lives, health, and physical integrity of the Xingu Basin indigenous communities, and to design and implement measures to mitigate the effects the construction of the Belo Monte dam.<sup>120</sup> IDDH expressed concerns about the reaction of the Government discrediting the IAHR system.<sup>121</sup>

72. One of the main criticisms of PAC made in JS25 is the short time frame allotted for the National Foundation for Indians (FUNAI), the Palmares Foundation (representing the Quilombos in government) and the National Historical and Artistic Heritage Institute (IPHAN) to give their views on development projects.<sup>122</sup>

73. Regarding land reforms, CONAQ stated that Quilombolas had continued to live without title to their lands, which contributed to a lack of access to public and social services.<sup>123</sup> Regarding the situation in Mato Grosso do Sul, JS18 stated that the lack of indigenous land demarcation had generated a dire situation in terms of sustainability and adequate food. It added that internal violence had been increasing in alarming numbers.<sup>124</sup> STP noted that necessary measures to implement protection of indigenous lands had not

been undertaken, and demarcation of lands of contacted and uncontacted indigenous peoples and peoples living in voluntary isolation, were being delayed.<sup>125</sup>

### 13. Right to development and environmental issues

74. Conectas recently conducted a study of 13 groundbreaking cases concerning corporate liability for human rights violations. According to the study, the main structural impediments to access to justice generally are the associated costs, delays in the justice system, ignorance of rights, the absence of institutions to take up cases in the public interest, and the lack of respect for precedent in case law. In addition, there is the difficulty of proving a causal relationship between a company's conduct and the damage suffered, the corporate veil, the victim's economic dependence, the lack of specific regulations, and the political and economic power wielded by companies.<sup>126</sup>

75. JS15 highlights the policy adopted by the National Development Bank (BNDES) in 2009 of holding the supply chain for the livestock sector accountable by, for example, verifying that the suppliers used by refrigeration companies have not been convicted of invading indigenous lands, discrimination or child labour. It recommends extending this policy to other production sectors. It also recommends dialogue with civil society, including the establishment of mechanisms for consulting local communities affected by projects considered for funding.<sup>127</sup>

76. Joint Submission 14 (JS14) underlined that operations by the mining company Vale and the Government's failure to address them had caused human rights violations in northern Brazil, affecting individuals' right to an adequate standard of living, health and a healthy environment, redress, due process and effective remedy, among others. JS14 made recommendations on how to avoid the negative impact of the steel industry's operations on human rights and the environment.<sup>128</sup>

77. Joint Submission 25 (JS25) shares the concerns of indigenous organizations about the amendments to the Forestry Code (PLC 30/2011) which the Senate is discussing; these include amnesties for deforestation offences and fines, even in areas under maximum environmental protection.<sup>129</sup> It also expresses concern about the Senate's adoption of Bill No. PLC01/10, which has amended the regulations on environmental authorizations and stripped the Institute for the Environment and Renewable Resources of all political power.<sup>130</sup>

#### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a national human rights institution with "A" status):

##### *Civil society:*

ANCED	Asociación Nacional de los Centros de Defensa de los Derechos del Niño, Niña y el Adolescente Article19
AI	Amnesty International
AJD	The Associação Juizes para a Democracia
CCR	Comissão de Cidadania e Reprodução
CDC	Compagnie des Filles de la Charité de Saint Vincent de Paul
CEJIL	Center for Justice and International Law
IVICUS	World Alliance for Citizen Participation and the Commonwealth Human Rights Initiative
CFOAB	Conseil Fédéral de l'Ordre des Avocats du Brésil
COLCGS	Congregation of Our Lady of Charity of the Good Shepherd

CONAQ	The Coalition of Advisory Organizations to the National Coordination of Articulation of Black Rural Quilombola Communities
FI	Franciscans International
FLD	Front Line Defenders
FMSI	Marist International Solidarity Foundation
GAJOP	Gabinete de Assessoria Jurídica as Organizações Populares.
GIEACPC	Global Initiative to End All Corporal Punishment of Children
HRW	Human Rights Watch
ICJ	International Commission of Jurists
IDDH	Institut for Development and Human Rights
JG	Justiça Global
JS1-	Joint Submission 1
IIMA-VIDES	Instituto Internazionale Maria Ausiliatrice – International - International Volunteerism Organization for Women, Education, Development, and Association Points coeur
JS2-	Joint Submission 2 Asociación Brasileña de Lesbianas, Gays, Bisexuales, Travestis y Transexuales (ABGLT) y la Iniciativa por los Derechos Sexuales, y trata sobre la situación de los derechos humanos de las personas lesbianas, gays, bisexuales, travestis, transgénero, transexuales e intersex (LGBTI)
JS3-	Joint Submission 3FIACAT and ACAT Brazil
JS4-	Joint Submission 4Ação Educativa Assessoria, Pesquisa e Informação Geledés Instituto da Mulher Negra and Plataforma Brasileira de Direitos Humanos Econômicos, Sociais, Culturais e Ambientais ;
JS5-	Joint Submission 5Movimiento Nacional de Derechos Humanos; Plataforma DHESCA Brasil ; Contrapartes de MISEREOR en Brasil; Proceso de Articulación y Diálogo –PAD
JS6-	Joint Submission 6 CLADEM-Brasil, Latin American and Caribbean Committee for the Defense of Women's Rights; Ação Educativa; ECOS Comunicação e Sexualidade; Themis Assessoria Jurídica e Estudos de Gênero; REGES Rede de Gênero e Educação em Sexualidade and Relatoria Nacional para o Direito Humano à Educação (Plataforma DHESCA Brasil);
JS7-	Joint Submission 7IPAS-Protecting women's health Advancing women' reproductive rights- ABIA, associação Brasileira Interdisciplinaria de AIDS, CCR, Comissão de Cidadania e Reprodução, CLADEM, CURUMIN por todas as mulheres, por todos os direitos, DHESCA-Brasil, Plataforma Brasileira de Direitos Humanos, Economicos, Sociais, Culturais e Ambientais, CONECTAS, IMAIS, Instuto Mulher pela Atenção Integral a Saude e Direitos Humanos .
JS9-	Joint Submission 9 The Women's Networking and Support Programme, Instituto NUPEF, Sexuality policy watch and the Association for Progressive Communication
JS10-	Joint Submission 10 The Working Group on Intellectual Property (GTPI) of the Brazilian Network for the Integration of the Peoples (REBRIP)
JS11-	Joint Submission 11 ABRAÇA - Associação Brasileira para Ação por Direitos das Pessoas com Deficiência; Associação 3IN – Inclusão, Integridade e Independência; Conectas Direitos Humanos; FRATER – Fraternidade Cristã de Pessoas com Deficiência and RIADIS – Rede de Latino-americana de Organizações Não- Governamentais de Pessoas com Deficiência e sua Famílias
JS12-	Joint Submission 12 Grupo Curumim and CLADEM Brazil
JS13-	Joint Submission 13 La Asociación Brasileña Interdisciplinaria de SIDA (ABIA) and Centro de Promoción de la Salud (CEDAPDS)
JS14-Joint Submission 14	International Coalition of those Affected by Vale mining company
JS15-Joint Submission 15	Ágere ; Cooperação em Advocacy; Conectas Direitos Humanos ; Instituto Mais Democracia ; Transparência e Controle Cidadão de

JS16- Joint Submission 16	Governos e Empresas ; Justiça Global ; Plataforma BNDES; Rede Brasil sobre Instituições Financeiras Multilaterais ; Repórter Brasil Justiça Global (“Global Justice”) and the Comitê Brasileiro de Defensores de Direitos Humanos (“Brazilian Committee of Human Rights Defenders”)
JS17- Joint Submission 17	End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes- ECPAT Brazil and ECPAT International
JS18-Joint Submission 18	CIMI and Justiça Global
JS19- Joint Submission 19	Coalition of Non-governmental Organizations Concerned about Large Dams in the Brazilian Amazon – Interamerican Association for Environmental Defense (AIDA), Instituto Socioambiental (ISA), International Rivers, Sociedade Paraense de Direitos Humanos (SDDH), Justiça Global, the Movimento Xingu Vivo para Sempre (MXVPS), and the Clínica de Direitos Humanos e Direito Ambiental da Universidade do Estado do Amazonas (CDHDA)
JS20- Joint Submission 20	Coalition of Human Rights and Environmental NGOs: Movimento Xingu Vivo Para Sempre, Painel de Especialistas, Sociedade Paraense de Defesa dos Direitos Humanos, Justiça Global, Asociación Interamericana para la Defensa del Ambiente
JS22-Joint Submission 22	Centre de Défense des Droits des Enfants et des Adolescents (CEDECA Interlagos), CEDECA Rio de Janeiro – Centre de Défense des Droits des Enfants et des Adolescents ; CDDCA Dom Luciano Mendes ; Organisation de Droits Humains : Projet légal ; CEDECA "Mônica Paião Trevisan" - CEDECA Sapopemba ; CDDH Marçal de Souza – Centre de Défense des Droits Humains ; CEDECA Emaús – PA ; CEDECA - Marcos Passerini /Maranhão ; CEDECA Zumbi dos Palmares ; CEDECA Helena Greco - Circo de Todo Mundo ; CEDECA Mariano Kleber dos Santos (CEDECA-SÉ/SP); CEDECA “Yves de Roussan” – CEDECA BAHIA; CEDECA Ceará; SINPSI-Syndicat des psychologues de l’Etat de São Paulo; Conseil Régional de Psychologie 6 <sup>e</sup> Région (CRP-SP) ; Association des parents et amis du complexe Juliano Moreira, fondée le 30 mai 1992 ; Association des familles, amis et consommateurs des services de santé mentale de la Municipalité de Itajaí (AME) ; Association des consommateurs, familles et amis du centre psychiatrique de Rio de Janeiro (AUFACEP) ; Association des Parents et Amis Consommateurs de la Santé Mentale de Macaé (ASPAS) ; Association des Familles, Amis et Consommateurs du CAIS de Angra dos Reis (AFAUC); Association des Parents et amis des patients du Complexo Juliano Moreira (APACAJUM) ; Association des Consommateurs, Familles et Amis du Centre d’Attention Psychosocial de Queimados (AUFACAQ) ; Association de Volta Para Casa (Reviens à la maison) ; Association Lar Menino Feliz de Sacra Família (Maison, Enfant heureux de la Famille Sacrée) ; Journal Voix de Santé Mentale ; Mouvement National de la Lutte Antimanicome ; Forum Araras de la Lutte Antimanicome
JS23- Joint Submission 23	Dignitatis and Justiça Global
JS24-Joint Submission 24	UNEAFFRO / Brazil (União de Núcleos de Educação Popular para Negras, Negros e Classe Trabalhadora); MOVIMENTO NEGRO UNIFICADO; ASSOCIAÇÃO JUÍZES PARA A DEMOCRACIA
JS25-Joint Submission 25	CIMI (Conselho Indigenista Missionário – vinculado à CNBB - Conferência Nacional dos Bispos do Brasil); Instituto das Irmãs da Santa Cruz (The Sisters of The Holy Cross); EACCONE (Equipe de Assessoria e Articulação às Comunidades Negras); Irmãs Pastorinhas de Eldorado (The Little Pastor Sisters) – organizations that work with

- the communities of descendants of slaves who live in the Atlantic Forest in the valley of the Ribeira de Iguape River in the state of São Paulo, Brazil; Associação Juizes para a Democracia (AJD).  
 National Coaliton of World Cup and Olympics Popular Committees  
 Plataforma Dhesca Brasil  
 The Society for Threatened Peoples  
 World Vision Brazil
- NCWCOPC  
 PDB  
 STP  
 WV
- Regional mechanism*
- IACHR Inter-American Commission of Human Rights
- <sup>2</sup> JS3, p.3. See also AI, p.3 and HRW p.2  
<sup>3</sup> JS3, pp. 2-3. See Also AI, p.3 and JS5, para. 32, p.10  
<sup>4</sup> AI, p.3. See also JS3, p.3  
<sup>5</sup> See HRW p.1; AI, p.2; Article 19, para.18, p.4 and CIVICUS, para.4.1, p.2  
<sup>6</sup> Article 19, para 18. p.4 and para.23, p.5  
<sup>7</sup> CIVICUS paras 4.1 and 4.2, p.2  
<sup>8</sup> JS9, para. 4, p.3  
<sup>9</sup> JS9 paras 13-14  
<sup>10</sup> Article 19, para, 7, p.2  
<sup>11</sup> JS15, paras 14 and 18  
<sup>12</sup> See JS3 p.5. See also JS11 para.37  
<sup>13</sup> JS11 para. 37  
<sup>14</sup> AI pp.1- 2.  
<sup>15</sup> JS5, para. 3, p.2. See also AI, p.2. and PDB para.50  
<sup>16</sup> PDB para 50. See also AI, pp.2-3  
<sup>17</sup> IDDH, para8  
<sup>18</sup> JS5, paras 3-5, pp.2-3,  
<sup>19</sup> JS5, para.21, p.7,  
<sup>20</sup> See JS5, para 36, p. 11, JS17, paras. 2.7 and 2.8, ANCED, pp 9-10, PDB, paras. 21-25, FLD para. 13, p.3, STP, para.2, p.2, Article 19 paras. 20-22, pp.4-5  
<sup>21</sup> JS17 paras. 2.7 and 2.8. See recommendation, point 4.7  
<sup>22</sup> ANCED, pp10-11  
<sup>23</sup> JS5, para. 47, p.13  
<sup>24</sup> AI, p.1  
<sup>25</sup> JS9 para. 6, p3. See also PDB paras. 48-49  
<sup>26</sup> IDDH paras 1 and  
<sup>27</sup> FI para. 13  
<sup>28</sup> JS5, paras. 37-38, p.11  
<sup>29</sup> JS24, p.3  
<sup>30</sup> JS1, para 16, p.4  
<sup>31</sup> JS2, para. 1.1  
<sup>32</sup> JS2, paras. 2.1 y para. 3.1. See also JS6, para. 41, pp.10-11  
<sup>33</sup> JS2, paras. 6.2 and 6.7  
<sup>34</sup> JS3 p.4. See also JG, para.5, p.2 and HRW p.1  
<sup>35</sup> AI, p.3. See cases.  
<sup>36</sup> HRW, p.4  
<sup>37</sup> CIVICUS, para.3.1  
<sup>38</sup> See HRW pp 1-2. See also CIVICUS, para.3.1, p.2 and GAJOP. Recommendation 2.  
<sup>39</sup> JG, para. 11 and 14, pp.3 and 4  
<sup>40</sup> HRW, p.2. See also JS5, paras. 26-32, pp.8-10, PDB, para.6 FI, para. 18 and AI, p.2  
<sup>41</sup> HRW p.2  
<sup>42</sup> IACHR, PC 236/08 – Persons Deprived of Liberty in the Polinter-Neves Penitentiary, Brazil, available at: <http://www.cidh.oas.org/medidas/2009.eng.htm>  
<sup>43</sup> AI, p.2  
<sup>44</sup> PDB para. 7.  
<sup>45</sup> JS3, pp.2 and 4  
<sup>46</sup> JS4, para 15, p.5. See also PDB, para.9

- 47 FI, para. 20
- 48 AI, p.2
- 49 PDB, para. 8 and JS3, p.3
- 50 JS3 p.3. See also AI, p.4. See also JS5 para. 31, p.9 and HRW, p.2
- 51 JS3, p.3. See also JS22, para. 43, p.18 and ANCED, p.4
- 52 See JS5, p 10, para. 35
- 53 JS22, paras 3-4, p.8 et paras. 46- 47.1, pp. 19-20. See also ANCED, p.5
- 54 COLCGS, para. 6
- 55 JS1 para19, p.5
- 56 COLCGS paras 7,8 and10
- 57 GIEACPC, para 1.1, p.2
- 58 CDC, p.5
- 59 ICJ, para.6, p.3. See also JS15, para. 10
- 60 AI p.2
- 61 Article 19, para 17, p.4. See also HRW p.3 and AI, p.2
- 62 AI, p.2. See also CEJIL para.16
- 63 JS5, p.3, para.6
- 64 CFOAB, p1. See also AI, p.2 and CEJIL, para.12, p.3
- 65 I/A Court H.R., Case of Gomes-Lund et al. (Guerrilha do Araguaia) v. Brazil. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219 (Available at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_219\\_ing.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_219_ing.pdf)).  
See also, Article 19, pp.4 para 15; AJD, p.2, CFOAB, p.1; JS5 p.10 para.31, HRW pp.2-3 and CEJIL, p.2
- 66 CEJIL, p.1 para 2 – p.5 para 20. See Also JS5, para.18, p.6
- 67 AJD p.1.
- 68 FMSI, paras. 16 and 7, pp.5 and 2
- 69 IACHR, PM 224/09 – Adolescents Deprived of Liberty in the Socio-Educational Internment Facility (UNIS), Brazil, Available at: <http://www.cidh.oas.org/medidas/2009.eng.htm>. See also ANCED, pp. 4-5
- 70 JS1, para. 7, p.3
- 71 JS2, para.5.2, p.7
- 72 JS4, para. 26, p.8. See also PDB, paras 17-18
- 73 JS6, para. 40, p.10
- 74 R 108/10 - Office of the Rapporteur for Freedom of Expression Condemns Murder of Two Journalists in Brazil. Washington, D.C., November 3, 2010 (Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=824&IID=1>), R44/11 - Office of the Special Rapporteur Condemns the Murder of Two Journalists in Brazil. Washington, D.C., May 11, 2011 (Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=842&IID=1>); R69/11 - Special Rapporteur on Freedom of Expression Condemns Murder of Blogger in Brazil and Recognizes Authorities' Initiative in Investigating the Crime. Washington, D.C., July 14, 2011 (Available at: <http://www.cidh.org/relatoria/showarticle.asp?artID=858&IID=1>); R102/11 - Office of the Special Rapporteur Condemns Murder of Radio Reporter in Brazil. Washington, D.C., September 15, 2011 (Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=868&IID=1>); R119/11 - Office of the Special Rapporteur Regrets Death of Cameraman in Brazil. Washington, D.C., November 10, 2011 (Available at: <http://www.cidh.oas.org/relatoria/showarticle.asp?artID=874&IID=1>). See also Article 19, para 12, p.3
- 75 Article 19, paras 8-11. See also FLD, para.20
- 76 JS5 paras. 23-24 ,pp. 7-8
- 77 See FLD para. 4, p.1 and see also JS5, pp. 12 -13 para. 44 and AI, p.1
- 78 AI p.1
- 79 JS3 p.2. See also CIVICUS, p.1
- 80 FI para.8
- 81 JS16 p.6. See also FI recommendations c and d, p.5

- 82 GAJOP, recommendation 4  
83 CIVICUS, para.2.2, p.2.. See also FLD, paras. 7,11, 21-22, pp.2 and 4, FI, para.10 and PDB para. 51  
84 JS19 cited case paras.27-28. See also JS25, p.7, PDB para.52  
85 CIVICUS, para 2.1, p.1, FLD para.19, p.4, and AI, p.4  
86 JS23 paras 27 and 37.  
87 JS24, p.2  
88 JS1 para 51, p.11  
89 JS5, para. 2. See also AI, p.1  
90 GAJOP, recommendation 1  
91 JS5, paras 10-13, pp.4-5. See also, FLD para. 6, p.2, and AI, p.5, GAJOP, recommendation 11  
92 PDB, para.35  
93 AI, pp. 5 and 7  
94 NCWCOPC, paras.37 and 42, CDC, recommendation 5,p.5  
95 JS5 para. 39, pp. 11-12. See also JS12, p.3  
96 JS12, pp.3, 8 and 9  
97 JS9, para 16. See also CCR paras 1 and 14-19, JS17, para .9  
98 CCR, p.1 and p.5.  
99 JS7 point 3-4, pp.8-10. See also JS12, p.8  
100 V, p.2  
101 JS13, para. 2.4, p.3  
102 JS10, p.11  
103 JS4, p.2, para.4  
104 JS4 para. 27, p.8,  
105 JS1 para.8  
106 JS6, paras 8-15, pp.3-4 and para.45, p.12  
107 CONAQ para. 14, p.4  
108 JS11 paras 11-12  
109 JS1 para. 52, p.11  
110 JS4 p.6, para.18  
111 JS1 para 18, p.5  
112 JS5, para. 43 p.12. See also STP, para 21, p.6, FLD paras. 8-9, p.2, and FI para. 9, p.3  
113 CONAQ paras. 18-41 and cases cited pp 5-7. See also case cited by FLD, paras.9-10 and AI p.5  
114 PDB, paras 22-23  
115 FLD, para. 13, p.3. See also Article 19 paras. 20-22, pp.4-5  
116 STP, para. 2, p.2  
117 STP, para. 22  
118 JS19, para 2. See cases cited San Antonio and Jirau Dams, Tucuruí and Tapajos Hydroelectric  
Complex, paras. 19 and 20. See also JS20, Article 19 paras 18-21 and PDB, paras. 23-25 and 30-31  
119 JS20, para. 5, paras. 13-26 and 36-44. See also JS19, pp.2-5, AI, p.4; STP, paras. 12-13; IDDH, p.3  
and JS25, p.5, PDB paras. 26-29, and Article 19, para. 21  
120 IACHR, PM 382/10 - Indigenous Communities of the Xingu River Basin, Pará, Brazil, Available at:  
<http://www.cidh.oas.org/medidas/2011.eng.htm>.  
121 IDDH para 5, pp.2-3. See also JS20, paras 54-58, JS9, para.6, p.2 and AI pp.4-5  
122 JS25, p.4.  
123 See CONAQ paras 1-2, GAJOP, recommendations 12  
124 JS18 paras. 2 and paras. 18-19. See also JS25 p.7  
125 STP, para 11  
126 JS15, paras. 3, 12 and 13.  
127 JS15, paras 34 and 36  
128 JS14 para. 10  
129 JS25 pp.1-2. See also FLD para 15, p.3 and PDB, paras. 34 and 51  
130 JS25, p.3