

**REMAINING OF QUILOMBO: recognition of rights to territorial disputes -
Overview of Brazil**

Quilombo Status Report in Brazil - Civil Society - UPR Brazil 3rd Cycle

National Articulation Quilombo - ANQ
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Presentation

The deaths produced by the accelerated progress of invested capital on the quilombo territories in Brazil, especially assassinations of leaders, as well as violent acts of expulsion and destruction of property such as houses and crops have been supported and potentiated by state policies that favor agribusiness , mining, major infrastructure projects, entres others.

On the other hand, land reform, demarcation of indigenous lands, the titling of quilombos land and regularization of traditional territories are rights increasingly vilified by the Brazilian state. Many have been the performance reports of gunmen and armed militias hired by farmers and / or companies, attacking people and communities in their territories in an attempt to accelerate the process of expulsion. These attacks have occurred in several states, resulting in targeted killings of leaders and dozens of people injured and / or tortured.

In this sense, the National Coordination of Quilombo - network of state / regional Maroons joints, independent of any interference from the state, governments and political parties, which seeks sustainability autonomously, with horizontal organizational structure - presents this report in order to strengthen the coordination of the struggles against racism as a structural cause of threats to quilombo territories; criminalization and leaders of murders; the expulsion of communities from their territories, resulting in a process of violence and genocide of black people in rural and urban areas; the unequal division of labor; and the denial of rights to essential public policies guaranteed by the Federal Constitution of 1988.

Conflict and violence in the countryside: an old social problem

The framework of the conflicts in the field in Brazil exposes a worrying scenario. On the one hand the data show that despite the complaints, cases of violence against peoples and traditional communities, Indians, landless workers and other movements in the field only increase. On the other, the length of the state to solve the problem of land reform further contributes to the neglect, associated with political and legal obstacles, fruit set of economic interests.

According to the Pastoral Land Commission, between 2012 and 2015 Brazil recorded an increase of 17% in instances of conflict compared to the period 2008 to 2011. Among the most affected people are the remaining quilombo communities, recognized by the 1988 Federal Constitution as having territorial rights of the lands they occupied. Are considered remnants of quilombo communities ethnic and racial groups, according to self-award criteria, with its own historical trajectory, endowed with specific territorial relations, with presumption of black ancestry related forms of resistance to the historical oppression.

The violence suffered by Brazilian quilombo communities is historically marked by the action of private agents (farmers, squatters, landowners, businesses, local political groups, among others) and the neglect of the state to abandon situation to which these have always been subject . Comparing the periods 2008-2011 and 2012-2015 saw an increase of 46% in the records of conflicts in the field involving quilombo communities (Chart 01).

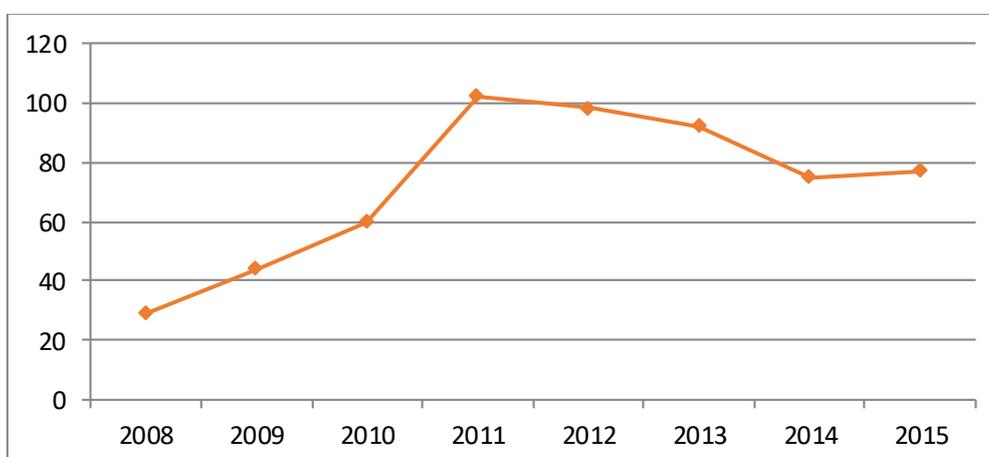


Chart 01: Annual change of instances of conflicts involving quilombolas in Brazil.

This increase is related to the mobilizations in the field that culminated in allegations of leaders of murders, attempted murders, death threats, contamination of

water and soil, physical attacks (including police), burning of homes and crops, eviction and reintegration possession, among others. The states of Maranhão, Minas Gerais, Bahia and Amapá occupy, respectively, the first four places in the ranking of this type of conflict in the field (Chart 02). Being the Maranhão state situation considered critical in view of the high level of conflict plus the ineffectiveness of the legal system to investigate cases and punish the guilty. Reigns here impunity for those who threaten the life of the black people of the field in Brazil.

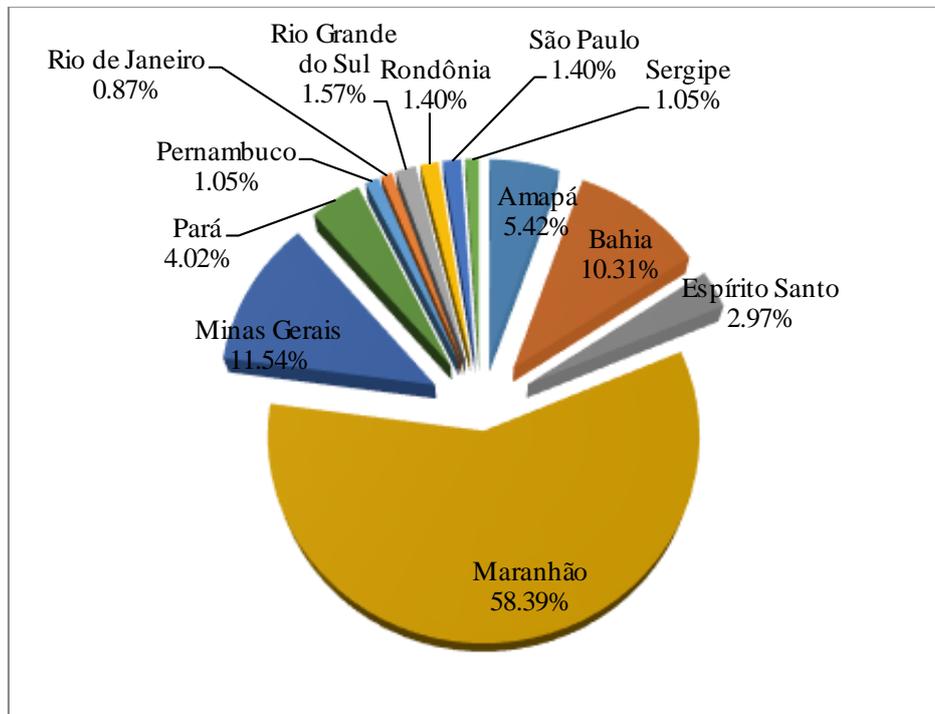


Chart 02: Conflicts involving quilombo communities in Brazil - 2008-2015.
Source: Pastoral Land Commission

Despite the vast history of conflict in the country, especially those involving the remaining quilombo communities, the Brazilian government has done little towards solving the problem. Although the 1988 Federal Constitution guarantees communities the right to their appropriately titled territories, as well as all other rights as citizens, what is observed is a slow both in the process of investigation, trial and conviction of guilty in the case of related crimes conflicts, as the application of legal provisions in favor of quilombo remnants.

In this sense, despite the existence of a legal protection at the national level (starting with Article 68 of the current Constitutional and Transitional Provisions in the Constitution, through Decree 4887/2003, Normative Instruction No. 57 of the Institute of Colonization and Reform land and others) and international (ILO Convention 169, to

which Brazil is a signatory), the reality is a great distance between the letters of the law and its implementation.

Against the possible advances, fruit of social struggles, there is intense political effort aimed at disqualifying the legal precepts of Article 68 ADCT / CF 1988 and the effects of regularization given by the issuance of Decree 4887/2003. The Proposed Constitutional Amendment No. 215 (PEC 215) is at the heart of this debate to question the validity of that decree, as well as the criterion of self-definition as a defining element of quilombo ethnicity, while proposing the transfer of responsibility in the process of demarcation of indigenous territories and quilombolas of the executive to the legislature. That is, all the markees, if this PEC is approved, will only after the approval of a specific law, making the process even more time consuming.

Almost all conflicts in the field involving quilombo communities is land nature. This signals the urgency of achieving a socially just land reform, which also meets the interests of peoples and traditional communities, maroon and indigenous and not only the political interests and capital, which has always been prevalent in the field, favoring some at the expense of extermination others.

The lack of an effective land policy and socially just further fuels the system of oppression in the field, as it strengthens the dominant groups, whose violent action made 38 murder victims only in the first six months of this year. The performance of gunmen, police and militia (some organized by farmers, politicians and the police themselves) generates increasing insecurity in the field and despite severe and recurrent, its real causes are strongly denied by local authorities, or are worthily investigated satisfactorily, in order to bring the culprits to trial.

Land regularization

Article 68 of the Constitutional and Transitional Provisions of the 1988 Constitution provides that "the remnants of quilombo communities who are occupying their lands are recognized definitive ownership, and the state must grant them the respective titles." However, this did not mean the definitive conquest of the right to their territories by quilombo communities. In formal terms, from 1988 to the present day

much was discussed about the validity of the legal parts resulting from art. 68 ADCT than their own effectiveness.

It is important to consider that while ensuring the constitutional right of the remaining quilombo communities to provide their duly regularized land, almost all of the recognition of actions for titling purposes is associated with territorial conflicts involving squatters, farmers, companies, mining companies, major projects developments, among others.

The ownership status of the remaining quilombo communities, therefore, is linked to two factors: the occurrence of conflicts; and the sluggish performance of the Brazilian state. In this case, from a legal point of view, the issue of Federal Decree No. 4887/2003 was a major milestone in the process regularization of quilombo communities, since it regulates the procedure for identification, recognition, delimitation, demarcation and titling of occupied lands, as well as the publication of Normative Instruction No. 57 INCRA instructing on the procedures in the titling process of quilombo land.

However, the implementation of this right has been slow and ineffective. After the effective date of Instruction 49/2008 the process of recognition and titling of quilombola now comprises two stages: Certification and Titling. Only the Palmares Cultural Foundation can issue the Quilombo Community certificate. The certificate does not guarantee the right to territory, she just buy the function to recognize the social group as quilombo. It is only after obtaining the certificate that communities can apply with INCRA titling of their lands. For the Pro-Indian Commission Sao Paulo normative instruction brought greater bureaucratization of the process of recognition, making the long and difficult process of being completed (Pro-Indian Commission, 2009).

In Brazil, by the end of 2015 there were 2,607 quilombo communities certified by the religious cult Palmares Foundation, 66% of these communities are located in the Northeast region (Chart 03), with great emphasis on the states of Bahia and Maranhão. As regards the land titling process, until the year 2015 were titrated only 164 "quilombo land."

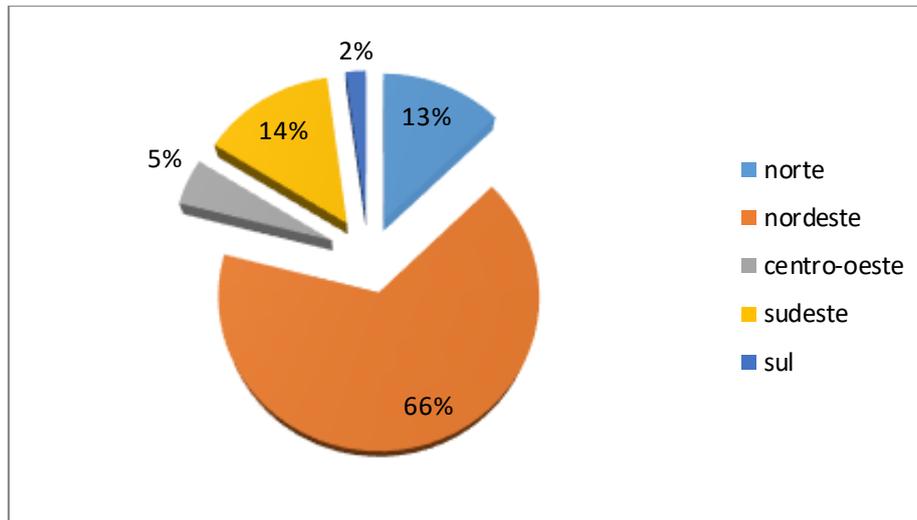


Chart 03: Quilombo Community certified by the Palmares Foundation by Region
Source: Palmares Foundation, 2016.

It is the title of collective ownership of the document ensures the effective right over the territory through its delimitation. The responsibility for carrying out the process of titling of quilombos territory until mid-2016 was the responsibility of INCRA, the body that has been unable to vent the demands for recognition. On average, between the opening of the process and the effective titling of quilombo territory for a period of eight years and may go beyond. According to the Pro-Indian São Paulo Foundation (2016), the 164 collective titles issued to the quilombo communities only 19% were issued by INCRA and 2% for other federal institutions (Chart 04).

Other securities (79%) were performed by state land agencies, especially the Institute of Maranhão Lands and the Land Institute of Pará major issuers of such securities. It is aware that these states stand out on the national scene due to the large number of land conflicts, often without a definitive solution. This is because not always the issuance of these securities is preceded by technical studies that meet the real interests of the quilombo communities, which ends up generating confusion in the size of the territories, whose delimitation does not meet the demographics of that territory, causing infighting for lack of land to work.

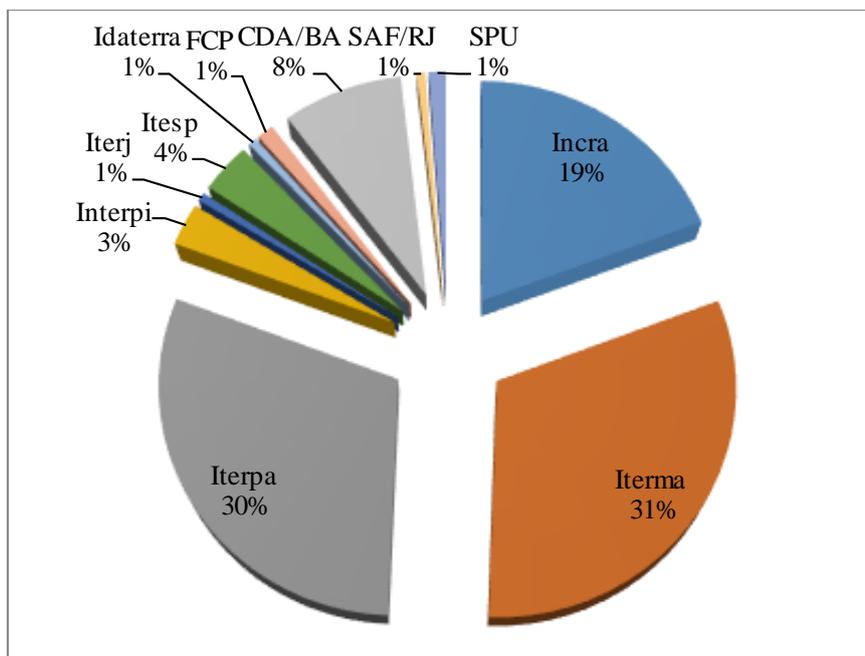


Chart 04: Land titles issued to the quilombo communities.

Education, Health and Food Safety

In the last decade, significant advances have been recorded in the area of quilombo education, such as the creation of the Secretariat of Quilombo Education of the Ministry of Education, endorsed by the racial equality policy. However, the data are still very shy, transpiring limited state action in this matter. According to Education Ministry data exist in Brazil by the year 2014, about 2,422 (two thousand four hundred twenty-two) schools in remaining quilombo communities given the basic education.

But this reality contrasts with what is in the field, usually schools without minimum operating conditions, or even to be school calls given the very low infrastructure of buildings, lack of school supplies, lack of qualified teachers, lack of school transport for the children. In some schools, despite the record as Maroons schools, there is no there execution or education, or the transfer of funds. In other there is the transfer, but the teaching conditions and the training of professionals are not consistent with the policy proposal designed for the quilombo school education in the country.

On the issue of health and food safety, the participation of former quilombo communities is increasingly precarious. In time evolution of health care systems, not the minimum conditions set by the World Health Organization are respected. The isolation of many communities, the existence of conflicts, the unsatisfactory implementation of

health programs by states and municipalities, as well as the adoption of a program to encourage the production and marketing of healthy foods, contribute to the generation of negative indicators as health and food security of the quilombo populations in Brazil.

In surveys conducted by the Federal Fluminense University, in 14 of the 27 states, involving quilombo communities already titled, showed that 63% of these communities are in food risk. The study suggests that in addition to the title, the Maroons territories are provided with incentives to food production programs and technical assistance for such production aiming improvement.

Final considerations

It is remarkable the great need for implementation of the Maroons policy in Brazil. The start for regularization of the territories, fundamental step to ensure peace in the country, according to their own communities, then the execution of the quilombo education policy and health and food security programs.

All this packet passes for political debate, legal and extremely urgent social, given the large number of quilombo leaders of murders that fought for the promotion of justice and equal rights; the constant amações death; expulsions of their territories; intimidation by use of legal and illegal armed force; the burning of homes and crops; the access impediments to areas essential to life and the social and cultural reproduction of these communities; the denial of rights and of history itself as a form of disqualification of speech. It is no longer speech, this is about the life of daily necessities, justice and the recognition of a conquered right.

Implementation evaluation table of recommendations

Received by BR recommendation 1st or 2nd cycle of the UPR	Country recommended	Position Brazil	Topics discussed	Implementation assessment	Implementation level -	Suggestion new recommendations
<p>Improve the fight against poverty and the fate of individuals and communities fighting for access to land in rural areas, protect them against evictions, intimidation, threats and murders</p>	Belgium	Accepted	Poverty eradication, social inclusion and social rights in general	<p>Progress: implementation of the eradication policy of extreme poverty.</p> <p>Setbacks:</p> <p>Pending actions: facilitate the implementation of the policy in rural areas of the municipalities</p>	Partially implemented	<p>Give effective continuity eradication policy of extreme poverty; ensure social security and physical integration of threats to victims and their families</p>
<p>Continue to address the grievances of vulnerable groups and to empower these groups - particularly women, children, indigenous people and Afro-descendant people - reducing urban-rural differences and promoting equal access to opportunities for all, especially access to health, education, employment, housing and social security</p>	Thailand	Accepted	Human Rights of Women	<p>Advances: without progress</p> <p>Setbacks: nothing was actually done to meet recommendation</p> <p>Pending actions: realization of actions to protect vulnerable</p>	Implemented unsatisfactorily	<p>Making effective access to education, health, sanitation, food and nutrition security, justice and citizenship as essential rights of the person.</p>
<p>Pay special attention to obtaining more effective results in the implementation of policies on the following issues: the protection of the rights and promotion of socio-economic situation of indigenous peoples and quilombo communities of African descent; access to justice and combating impunity; extrajudicial executions, torture in prison; and protection of human rights defenders</p>	Cape Verde	Accepted	Torture and other cruel, inhuman and degrading treatment	<p>Advances: implementation of the incentive policy of collective socio-economic initiatives in the residents of rural communities associations; encouraging the adoption of food procurement programs produced in communities</p> <p>Setbacks:</p> <p>Pending actions: extend the</p>	Partially implemented	<p>Create mechanisms for evaluating the effectiveness of social promotion policies, especially those related to the population of quilombos and other traditional populations.</p>

				support mechanisms of the current policy.		
Continue the commitment to agrarian reform program	Ghana	Accepted	Right to property, land rights and economic rights in general	Advances: issuing 13 decrees expropriation Setbacks: drop in resources for land reform. Pending actions: effective land reform policy with special attention to the titling of quilombola	Partially implemented	Effect the regularization of quilombola territories.

Legend implementation grade scale:

Implemented satisfactorily: the necessary steps were taken by the country and it was possible to verify progress

Unsatisfactorily implemented: country took formal steps to meet the recommendation, but the issue remains a problem and the steps were not sufficient and / or appropriate

Partially implemented: some measures have been taken, but lack many

Not implemented by default: nothing was done to implement the recommendation

Not implemented by active violations: State adopted measures that go against what recommendation asked