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Necropolitics and criminal interviews in Brazil: An analysis of the legacy of torture and the Méndez Principles

*Necropolítica y entrevistas criminales en Brasil: Un análisis del legado
de la tortura y los principios Méndez*

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ABSTRACT Brazil has the third-largest prison population in the world, yet it continues to face a high crime rate in society. Despite frequent arrests in *flagrante delicto*, the justice and security systems struggle to combat organized crime. The prevalence of torture and abusive practices during investigations and criminal interviews—practices still regarded by some as an effective means of crime control—undermines justice, perpetuates wrongful convictions, and disproportionately affects Black victims, reflecting entrenched systemic necropolitics and institutional racism. Through a qualitative analysis of legal frameworks, human rights reports, jurisprudence, and cases of police violence, the study identifies structural challenges in addressing these abuses. The article advocates for the adoption of the Méndez Principles for ethical and effective criminal interviews by implementing structural reforms. While acknowledging its limitations, the study seeks to contribute to bridging the gap between international human rights standards and Brazil's unique socio-political context. It is aimed to support the alignment of Brazil's security and justice practices with democratic and human rights principles, thereby fortifying the Constitutional State.

KEYWORDS Torture, police brutality, human rights, Brazilian security system, racism.

RESUMEN Brasil tiene la tercera población carcelaria más grande del mundo y, sin embargo, sigue enfrentando altas tasas de criminalidad en la sociedad. A pesar de las frecuentes detenciones en flagrante delito, los sistemas de justicia y seguridad tienen dificultades para combatir el crimen organizado. La prevalencia de la tortura y las prácticas abusivas durante las investigaciones y entrevistas criminales —consideradas por algunos como un medio eficaz de control del crimen— socavan la justicia, perpetúan condenas erróneas y afectan de manera desproporcionada a las víctimas negras, refle-

jando necropolítica sistémica e institucionalismo racista profundamente arraigados. A través de un análisis cualitativo de marcos legales, informes de derechos humanos, jurisprudencia y casos de violencia policial, el estudio identifica desafíos estructurales para abordar estos abusos. El artículo aboga por la adopción de los Principios de Méndez para entrevistas criminales éticas y efectivas mediante la implementación de reformas estructurales. Reconociendo sus limitaciones, el estudio busca contribuir a cerrar la brecha entre los estándares internacionales de derechos humanos y el contexto sociopolítico único de Brasil. Su objetivo es apoyar la alineación de las prácticas de seguridad y justicia de Brasil con principios democráticos y de derechos humanos, fortaleciendo así el Estado Constitucional.

PALABRAS CLAVE Tortura, brutalidad policial, derechos humanos, sistema de seguridad brasileño, racismo.

Introduction

A significant proportion of the Brazilian population residing in urban areas with over 100 thousand inhabitants subscribe to the notion that “a good criminal is a dead criminal.” This perspective is predominantly held by White men and residents of the southern region of the country (Fórum Brasileiro de Segurança Pública, 2015). This mindset underscores a systemic issue: despite the numerous fundamental rights guaranteed by the Federal Constitution of 1988 and the numerous studies demonstrating the ineffectiveness of torture in obtaining reliable information or solving crimes, it remains entrenched within Brazil’s security and justice systems. For a substantial portion of the population, torture is still viewed as a necessary tool for crime control. These contradictions underscore a critical challenge for Brazilian democracy: how to dismantle the widespread acceptance of brutality and violence, and build a justice system truly aligned with human rights.

This study explores the persistence of torture and cruel, degrading treatment within Brazil’s justice and security systems, tracing these practices both to historical roots and to contemporary institutional cultures that enable their continuation. Despite legal measures aimed at eradicating torture and upholding democratic principles, these practices remain deeply ingrained in Brazil’s current institutional framework. The study focuses on criminal interviews in investigations and challenges the misconception that torture is an effective tool for combating crime. It emphasizes its inherent conflict with constitutional principles, legal rights, and human rights obligations. Criminal interrogations are central to this analysis, as they often expose individuals to heightened vulnerability to State power. As the 2016 UN Special Rapporteur on Torture highlighted, coercive methods used to extract confessions or implicate others are where torture most commonly occurs. Brazilian institution-

al culture has remained largely authoritarian, with a notable gap between laws and everyday practices (Paes, 2015). It is imperative to examine the persistence of torture and police violence, as upholding constitutional principles is crucial to maintaining public trust in the State as the legitimate authority. This is an essential aspect of the nation-State concept (Quijano, 2005). Moreover, these violent practices compromise investigators' professionalism and erode public confidence in institutions (APT, ATI and NCHR, 2021).

This article is organized into four sections. The first section outlines the key Brazilian constitutional principles related to criminal investigations, focusing on interviews and the rights of interviewees. It lays the groundwork for analyzing the gap between Brazil's legal framework and the enduring issue of torture in criminal proceedings, while also exploring its inefficiency in how torture undermines access to justice itself. The second section employs the concept of necropolitics (Mbembe, 2018) to examine power dynamics within Brazil's justice and security systems. This concept refers to the exercise of power to decide who may live and who must die, often enacted through State practices that marginalize or expose certain groups to systemic violence and social death. The examination investigates how State institutions deploy violence selectively, reinforcing historical inequalities and sustaining hierarchies of racial and social oppression. The third section examines the primary challenges to protecting human rights in this context, emphasizing the gap between Brazil's formal commitments to human rights and the enduring practices of torture and police violence. It analyzes the systemic and institutional factors enabling these violations, including the complicity of the judiciary and the militarized approach to policing. While this research seeks to illuminate these contradictions, it acknowledges the complexity of the issue and does not aim to exhaust the topic. The final section introduces the Méndez Principles, an international framework offering alternatives to coercive and violent methods in criminal interrogations. These principles aim to prevent false confessions, ensure fair trials, and reinforce justice and the rule of law, mitigating the democratic harms caused by torture. This study sought to analyze the content of these principles within the context of the Brazilian reality. By addressing these critical issues, this article contributes to the broader discourse on human rights. However, it recognizes that the intricate interplay of historical, social, and institutional factors sustaining torture and police violence demands a more in-depth, multidisciplinary approach.

The methodology involved a qualitative analysis of documents and reports related to criminal interview processes and torture practices in Brazil. This approach included a review of relevant literature, such as academic studies, legal documents, and reports from public and human rights organizations, to identify relevant data, constitutional principles, and legal rights, as well as the challenges in upholding human rights in Brazil. Additionally, specific cases of torture and police violence, along with

court jurisprudence from both national and international courts, were examined to illustrate the persistence of these issues in practice and analyze possible reforms. The methodology encompassed the collection and critical dissection of both empirical and theoretical evidence to map the continuity of abusive practices and propose some reforms based on the research findings.

Constitutional principles and rights in criminal investigations and interviews

To address the discrepancy between Brazil's legal framework and the ongoing issue of torture in criminal proceedings, it is imperative to first identify key constitutional principles and protected rights. In the criminal context, several principles have been established to prevent the abusive use of power by the prosecutorial system. Brazil's constitutional principles governing criminal interviews establish normative guidelines to protect individuals from State overreach and misconduct in criminal prosecution. These include the presumption of innocence, adversarial proceedings, the right to adequate legal representation, due process, and respect for human dignity. Additionally, these principles ensure fundamental rights such as access to justice, legal representation, and the right to remain silent. Collectively, they aim to strengthen the rule of law, ensuring a fair and equitable process to protect individual rights. Furthermore, the constituent movement criminalized torture in Article 5 of the Federal Constitution, reinforced by Federal Law 9.455/1997.

Access to justice is a fundamental right that is crucial for realizing other rights, including the right to adequate judicial protection (Galdino, 2011). Access to justice is closely tied to the quality of testimonies and information gathered during investigations and trials. Ensuring a fair trial is critical for making correct decisions and is a cornerstone of the Constitutional State (Marinoni and Mitidiero, 2017). As Cecconello, Ávila, and Stein (2018) point out, the quality of information can be affected by various factors during memory formation, which are beyond the control of the justice system. Memory can deteriorate over time between the event and the testimony, and the methods used to obtain it can permanently alter it. Given memory's malleability, exposure to incorrect information can lead to false recollection or recognition. In situations where interviewees are subjected to an oppressive environment, unfamiliar jargon, and authorities they fear and mistrust, their memory of the criminal event can be influenced by leading, suggestive questions posed by untrained professionals who may have confirmation bias. As Cecconello, Ávila, and Stein (2018) note, "each question asked by the interviewer has the potential to interfere not only with the account but also with the original memory of the event." Consequently, torture and abuse, in addition to being prohibited by Brazilian law, can severely compromise the quality of testimonies, leading to wrongful convictions and denying victims access to justice.

The fundamental guarantees in criminal proceedings ensure the defendant's right to consult privately with their lawyer before interrogation (Article 185, §5, first part of the Code of Criminal Procedure). Notably, Law 10.792/2003 established the mandatory presence of a defense attorney during the defendant's interrogation, subject to absolute nullity.¹ The Law on Abuse of Authority (13.869/19) criminalizes interrogating a detainee during night-time rest periods, except in cases of being caught in the act or when the detainee, with proper assistance, consents to provide a statement (Article 18). Additionally, the principles of human dignity and the presumption of innocence, which prohibit humiliating or degrading treatment, regulate the use of handcuffs. According to Binding Precedent number 11 of the Supreme Federal Court, handcuffs may only be used in cases of resistance or a well-founded fear of escape or harm to the detainee or others. The 1st Panel of the Supreme Federal Court recently ruled that guidelines must be established for cases involving minors. This ruling included the requirement for the Public Prosecutor's Office to issue an opinion on the necessity of using handcuffs.²

These principles underscore the necessity of pretrial detention as a measure of last resort, as delineated in Article 282, §6 of the Code of Criminal Procedure, which stipulates an evaluation of the measure's relevance and adequacy. This exceptional use of pretrial detention is consistent with the presumption of innocence. The Constitution safeguards the inviolability of the home, stipulating that entry without the resident's consent is permitted only in cases of *flagrante delicto*, disaster, to provide assistance, or, during the day, by judicial order (Article 5, XI).

Additionally, the non-compliance with a fundamental precept (ADPF) number 395 declared the coercive conduction of suspects or defendants for interrogation as incompatible with the Federal Constitution, since the accused is not legally obligated to participate. Coercive conduct by police forces in public is not a treatment for the innocent, and it emphasizes the presumption of innocence and human dignity. In his vote, the Reporting Justice clarified that this decision applies only to the accused and not to witnesses, and it does not permit the coercive conduction of suspects as witnesses to avoid the legal consequences of illegal conduction.³ The Law on Abuse of

1. According to the jurisprudential understanding of the Brazilian Superior Court of Justice (STJ): "The absence of personal notification to the appointed defense attorney to attend the defendant's interrogation and the hearing of the appeal in a strict sense constitutes a nullity of the act, as it restricts the party's right to defense" (Habeas Corpus 200.640/SP, reporting Justice Nefi Cordeiro, Sixth Panel, judged on 10/20/2015, published on 11/6/2015).

2. Rcl 61876 / RJ, Reporting Justice Cármen Lúcia, First Panel, judged on 05/07/2024.

3. "The Court, by majority and according to the vote of the Rapporteur, upheld the argument of noncompliance with a fundamental precept, to pronounce the non-reception of the expression 'for the interrogation' in Article 260 of the Code of Criminal Procedure (CPP), and to declare the incompatibility with the Federal Constitution of the coercive conduction of suspects or defendants for interrogation,

Authority addresses this in Article 10, declaring the coercive conduction of a witness or suspect, when manifestly inappropriate or without prior notification to appear before the court, as punishable by detention from one to four years. For witnesses, coercive conduction applies only if they fail to appear after being duly summoned. In such cases, the judge has the authority to order their appearance and request the assistance of law enforcement (Articles 218 and 219 of the Code of Criminal Procedure).

Despite the constitutional guarantees designed to protect interviewees' rights and uphold democratic principles and international human rights standards, a prominent gap persists between these protections and their practical implementation within Brazil's criminal justice system. This article will examine this disparity, highlighting the ongoing challenges and deficiencies in aligning legal principles with the realities of criminal interviews. The evaluation will begin by exploring how power dynamics manifest State necropolitics against the Black population in Brazil, drawing on the works of Achille Mbembe, Aníbal Quijano, and Michel Foucault, as well as other academic studies on torture and necropolitics in Brazil. The article will then examine some of the legal and institutional challenges that perpetuate these issues. This analysis is further informed by national and international reports, as well as rulings from the Inter-American Court of Human Rights. Both analyses, concerning power dynamics and legal/institutional factors, are supplemented by a review of some recent cases that portray the prevalence of torture and historical social inequalities.

Death as governance: Unpacking necropolitics and State violence in Brazil's practices

Brazil, like other countries in the Americas, has a history marked by significant human rights abuses against its native populations and Black communities. These communities were forcibly brought to the Americas from Africa and treated as property, rather than as individuals with dignity and rights (Mbembe, 2018). Upon arriving in the Americas, the Europeans established social identities such as "native peoples," "Black people," and "mestizos," integrating them into a hierarchical structure that legitimized their domination by emphasizing the perceived inferiority of the conquered populations (Quijano, 2005). This hierarchy was not merely an instrument of

under penalty of disciplinary, civil, and criminal responsibility of the agent or authority and the illegality of the obtained evidence, without prejudice to the civil liability of the State. The Court also highlighted that this decision does not invalidate interrogations conducted up to the date of this judgment, even if the individuals were coercively conducted for such acts. Partially dissenting were Minister Alexandre de Moraes, according to his vote, and Minister Edson Fachin, according to his vote, in which he was accompanied by Ministers Roberto Barroso, Luiz Fux, and Cármen Lúcia (President). Plenary session, June 14, 2018."

colonial control, but an ideological structure designed to perpetuate inequality and subordination across generations.

The colonial hierarchy is analogous to the broader mechanism that Michel Foucault (2005) describes as biopower in modern societies. According to the author, racism functions as a system for managing populations, legitimizing violence, and regulating life and death in both direct and systemic ways. Racism, firmly entrenched in the historical processes of colonialism, becomes a critical apparatus within the State's power, shaping both the past and the ongoing distribution of life and death.

According to Foucault (2005), two technologies of power were introduced in modern societies: disciplinary power and biopower. The former aims to manipulate the body to make it useful and docile, while the latter also relies on a mass-regulating technique of population control, including statistical oversight and seeking to monitor fortuitous events in a living mass to optimize a state of life. The rise of biopower integrated racism into the State apparatus, leveraging it as a means of exercising power over death. In this context, racism becomes a condition for the acceptability of taking life, regulating the distribution of death within the economy of biopower. This authority authorizes a homicidal function of the State that encompasses not only the sovereign right to kill directly but also its indirect forms, such as exposure to death, the multiplication of risks, and its rejection.

Achille Mbembe's (2018) concept of necropolitics builds on and critiques Michel Foucault's theory. He contends that sovereignty essentially entails the authority to determine who is to live and who is to die. This concept extends beyond Foucault's focus by emphasizing the administration of death and the circumstances under which life can be terminated. Necropolitics involves the establishment of specific spaces where the State's power to kill is most visible. These spaces, as Mbembe (2018) points out, are characterized by the systematic devaluation of life and the imposition of extreme forms of violence and control. Mbembe observes that necropolitics frequently operates by suspending established laws and norms, thereby creating exceptional conditions where conventional rules are disregarded. This enables the State to exercise unparalleled control over life and death, systematically marginalizing, dehumanizing, and stripping individuals or groups of their social and political recognition.

In Brazil, for instance, slavery emerged as one of the earliest forms of biopolitical control, legitimized by European dominance. With the arrival of the Portuguese royal family in 1808 and the establishment of the General Intendancy of Police, this control intensified, particularly in Rio de Janeiro (Vargas, 2012). Torture was used to suppress dissent and enforce obedience, as well as to punish, control, and extract confessions from marginalized individuals deemed inferior by European social standards (Coimbra, 2001). Luciano de Oliveira (1994) contends that this colonial social structure had a lasting impact, giving rise to a form of capitalism that lacked social concern and a democracy with restricted citizenship. The resulting poverty, inequality, and repres-

sion perpetuate a deeply rooted structure that hinders social progress. The dynamics of this system extend beyond the conventional State-versus-population paradigm, as public opinion also creates a division within the population into those deemed “torturables” and “non-torturables.” This view, which justifies the use of torture against lower-class “delinquents,” is even held by some who fall into the “torturable” category. The notion that “a good criminal is a dead criminal” has permeated Brazilian culture, leading to the stigmatization of defenders of human rights as “defenders of criminals,” as if demanding that the State adhere to its own laws is illegitimate.

The normalization of violence and necropolitics in Brazil is evident in the actions of State forces, who frequently engage in torture, assault, and killing of individuals in favelas under the guise of militarized police operations that disregard residents’ rights and lives. These actions are justified under the guise of the so-called war on drugs, which is supported by the perception of marginalized individuals as inherently “torturable” criminals. This perception empowers the State to determine which lives are considered threats to the social order, justifying their removal. As Mbembe (2018) observes, this dynamic effectively reduces these individuals to “living dead,” leaving them profoundly excluded and extremely vulnerable.

Luiz Phelipe Dal Santo and Jairton Ferraz Júnior’s (2023) analysis provides a critical framework for understanding how Brazil’s penal system implements necropolitics, affecting the Black population disproportionately. They identify key mechanisms of State repression, including imprisonment, police violence and neglect, which collectively sustain this death governance. This framework is supported by recent data revealing the troubling overrepresentation of Black individuals in Brazil’s prison system, alongside the profiles of victims of intentional violent deaths and contemporary studies on the Brazilian public security model, which will be further explored.

Contemporary prisons, despite their stated focus on punishment and rehabilitation, perpetuate systemic racism against Black individuals. These systems condemn them not only to the loss of freedom but also to dehumanization, violence, and exclusion from society. In 2023, Black individuals constituted 69.1% of Brazil’s prison population (Fórum Brasileiro de Segurança Pública, 2024), experiencing elevated rates of mass incarceration, police abuse, torture, mistreatment, and discrimination (IACHR, 2021). In 2023, the prison system reported 3,091 deaths (Fórum Brasileiro de Segurança Pública, 2024).

Furthermore, the female prison population has grown significantly, from 9,683 in 2003 to 46,719 in 2023. In 2016, 62% of female prisoners were Black, primarily incarcerated for drug-related offenses (IACHR, 2021). These figures underscore the need to address systemic issues that have led to generations of individuals being confined to unemployment and underemployment due to racial divisions in the workforce (Gonzalez, 2020). This systemic bias is further highlighted in the findings of the 2024 Atlas of Violence (Cerqueira and Bueno, 2024), which shows that investigations often

involve home searches conducted without a judicial warrant (41%). These searches are concentrated in low-income neighborhoods, predominantly inhabited by Black populations, highlighting the racialized nature of law enforcement practices.

Such patterns hinder the effectiveness of rehabilitation efforts, which were once a central tenet of the rationale for imprisonment. Instead, they perpetuate cycles of disadvantage and incarceration (Davis, 2018). The Public Security Report (2024) further underscores the limited capacity for rehabilitation within Brazil's prisons, with only 19.7% of inmates engaged in work programs. Additionally, the Brazilian Supreme Federal Court recently acknowledged massive violations of fundamental rights within the prison system in the judgment of ADPF 347 (Claim of Non-Compliance with a Fundamental Precept).⁴ Overcrowding, substandard conditions, and a lack of essential services hinder physical integrity. Furthermore, the prolonged detention of many detainees beyond their formally designated sentencing terms undermines the prospects for rehabilitation and public security. These conditions also create opportunities for criminal organizations to proliferate.

This scenario underscores a critical nexus between necropolitics, institutional racism, and the Brazilian justice system. The system often fails to uphold fundamental rights during investigations and offers limited opportunities for reintegration and recovery, perpetuating a cycle of injustice and marginalization. Black individuals are subjected to constant surveillance, arbitrary State violence, and a perception of expendability.

The 2024 Public Security Report also analyzed victim profiles for intentional violent deaths, including homicides, femicides, robberies followed by death, bodily injuries resulting in death, police deaths, and deaths from police interventions. The report found that 90.2% of the victims were male, with 49.4% under the age of 29. This age group accounted for 71.9% of victims in police interventions. The 2024 Public Security Report found that 78% of victims of intentional violent deaths were of Black or Brown ethnicity. The highest proportion of these incidents occurred during police interventions (82.7%), followed by homicides (77.8%), bodily injuries resulting in death (73.9%), and robberies resulting in death (60.9%).

The report also examined police victimization. Of the victims, 96% were male, 69.7% were Black, and 71.6% were aged 35 to 54. The report also highlights a worrisome trend in 2023, where the number of suicides among police officers surpassed the number of deaths resulting from confrontations. This alarming statistic points to a growing mental health crisis within the police force, exacerbated by the high-stress nature of their work. The report underscores the importance of enhanced data collection and the implementation of urgent policies to safeguard the human rights of

4. ADPF 347, Rapporteur: Marco Aurélio, Reported by: Luís Roberto Barroso, Full Court, decided on 04-10-2023, Electronic Process DJe-s/n Published 18-12-2023 Public 19-12-2023.

public security professionals. Police officers are often regarded as “heroes,” which can prevent them from disclosing signs of fatigue, mental health challenges, or other personal struggles. This contributes to the invisibility of trauma among police officers.

As previously highlighted, the highest percentages of violent deaths among Black individuals are primarily attributed to police interventions, followed by homicides. Consequently, a more comprehensive appraisal of data related to these two causes of death is imperative. In 2023, for instance, 6,393 deaths resulted from interventions by civil and military police in Brazil, amounting to an average of 17 deaths per day. A detailed evaluation of the victim profiles reveals that 99.3% of the individuals were male, 41.5% were between the ages of 18 and 24, and 82.7% were Black. The data highlights racial bias in police use of force, as the mortality rate for Black individuals in police interventions is 289% higher than for White people (Fórum Brasileiro de Segurança Pública, 2024).

The homicide data provides a different perspective on the State’s use of force. According to a report by the National Council of Justice (2018), only 11.27% of Brazilian inmates are imprisoned for homicide, while 27.58% are incarcerated for robbery and 24.74% for drug trafficking. Despite Brazil’s population representing only 3% of the global population, it accounts for around 10% of all homicides worldwide, signaling violence levels far above acceptable standards (Fórum Brasileiro de Segurança Pública, 2024). The low rate of homicide-related imprisonment indicates that preventing homicide is not a priority in Brazil’s public security agenda.

The absence of incarceration for homicide is associated with ineffective investigations and the failure to identify perpetrators (Santo; Junior, 2023). It is perplexing that, despite Brazil’s substantial prison population, comprising the third largest globally, only a small percentage of these individuals are convicted of life-threatening crimes, particularly when considering the country’s high homicide rates. This inadequate focus on homicide cases creates space for militias and criminal factions to gain control, escalating societal violence. As the Public Security Report (2024) points out, most homicide victims in Brazil are Black, reflecting a system that perpetuates the death of Black individuals and contributes to a broader framework of racialized violence, where their lives are devalued and denied protection. The necropolitics manifests not only in the direct violence inflicted on Black individuals, as evidenced by the higher percentage of Black victims in police interventions, but also in the State’s complicity through inaction and neglect. Brazil’s justice system continues to undermine human rights, particularly for Black and marginalized communities, by failing to address systemic issues in police practices and investigations.

A noteworthy finding is that in 2023, Black women constituted 66.9% of femicide victims in Brazil (Fórum Brasileiro de Segurança Pública, 2024), highlighting the nexus of racial and gender-based violence. Of these cases, 41.4% occurred within the home, and 40.1% took place on the streets, indicating that gender-based killing is not

confined to private spaces but extends into the public sphere, affecting Brazilian society at large. Furthermore, it is concerning that 12.7% of femicide victims had an active emergency protective order in place at the time of their death. This statistic underscores a critical gap in the effectiveness of current legal measures and highlights the urgent need for more comprehensive strategies. While protective orders are an indispensable component of the response, they must be part of a multifaceted strategy that includes prevention, education, and stronger enforcement of legal protections. These statistics underscore the necessity for a multifaceted response to the violence faced by Black women in Brazil.

In essence, the dynamics of necropolitics in Brazil manifest in both active and passive ways. The State perpetuates violence against Black individuals through direct actions, such as deaths resulting from police interventions and mass incarceration, while also allowing widespread abuse, neglect, and death within and outside of prisons. The active manifestation of necropolitics is evident in the high rates of violent deaths resulting from police interventions, as well as in the deaths of police officers and in systemic practices that disproportionately funnel Black individuals into the criminal justice system. Additionally, necropolitics manifests through omission, as evidenced by the State's inability to effectively solve homicides, prevent femicides, and ensure humane conditions for prisoners. This negligence leaves Black victims particularly vulnerable to violence, with their deaths often going unresolved and their protection failing to meet basic standards of justice and human dignity.

These issues are further reflected in the public security model, which relies heavily on aggressive police operations (Hirata and others, 2021a). From July 2020 to June 2022, the Security Observatories Network (2022) documented 20,243 police operations across five states (Bahia, Ceará, Pernambuco, Rio de Janeiro, and São Paulo), resulting in 1,989 deaths. A study by GENI/UFF (Hirata and others, 2021b) on police efficiency in Rio de Janeiro revealed that from 2007 to 2020, only 1.7% of police operations were effective in achieving their objectives, while 12.5% were disastrous. The researchers assessed the impact on those involved (number of deaths and injuries, and whether arrests were made), the purpose of the actions (warrants for arrest and/or search and seizure, suppression of drug and weapon trafficking, conflicts between criminal groups, pursuit or escape, property issues, or retaliation for a death or attack on a police unit), and whether seizures were made (weapons, drugs, or the recovery of stolen goods such as cargo and vehicles).

The Public Security Report (2024) also emphasizes the necessity to advance the discussion on more effective and efficient crime control measures. At present, politicians regard crime control as a matter that can be addressed by increasing po-

lice lethality.⁵ This has resulted in an increase in mortality, particularly among Black youth, while organized crime persists in Brazilian society. The report presents two key conclusions, with this article focusing mainly on the first: effective suppression of criminal factions and militias requires both enhancing the investigative capacity of Brazil's judicial police forces and implementing strategies to address corruption within these institutions.

Two recent cases illustrate the necropolitics and brutality within Brazil's justice and security system. In Santos, São Paulo, 4-year-old Ryan da Silva Andrade Santos was shot and killed during a police confrontation that also claimed another young man's life and left one person injured (Figueiredo, 2024).⁶ During Ryan's funeral, police vehicles stationed outside the wake attempted to intimidate the grieving family by preventing the procession, effectively policing their mourning. A similar incident occurred in Bauru, São Paulo, where five military police officers entered the wake of two young men, Guilherme Alves Marques de Oliveira, 18, and Luis Silvestre da Silva Neto, 21, who had also been killed in a confrontation with the Military Police (Esteves, 2024). The officers' actions were marked by a lack of respect for the bereaved family, as they mocked the family and laughed, stating that "the system had won." They then proceeded to assault family members present near the caskets, demonstrating a lack of respect and violence.

The police's aggressive presence at the funerals of those they had killed exposes the State's necropolitical agenda. Marginalized individuals often face violence and repression in life, and in death, their dignity and right to mourn are disregarded. This denial of mourning further traumatizes the families left behind. As Mbembe (2018) asserts, necropolitics centers on the destruction and instrumentalization of human lives, where sovereignty's true objective is not autonomy or mutual recognition, but rather the systematic annihilation of bodies deemed expendable.

In Brazil's security and justice systems, torture and violent practices persist as either a silent policy of omission or tolerance by authorities, or as an overt, extremist policy driven by electoral motives. This phenomenon is deeply rooted in Brazil's colonial past, where racial prejudices from the era of slavery continue to shape the

5. As recent examples, the governor of São Paulo, Tarcísio de Freitas, stated that he "doesn't care" about reports of abuses occurring during "Operation Verão", launched by the Military Police in Baixada Santista. Available at <https://tipg.link/SMFH>. Regarding a 2020 judicial ruling that establishes rules for police operations, the governor of Rio de Janeiro, Cláudio Castro said: "For the police to enter a community today, it has to be under extraordinary circumstances [...] In practice, what worked was the police entering the communities every day. Now, the police can't enter every day; they have to give notice". Available at <https://tipg.link/SMFJ>.

6. Earlier in the year, Ryan's father, Leonel Andrade Santos, was also a victim of police violence. He was one of 56 people killed during "Operation Verão" between January and April, about nine months before Ryan's death.

social and political landscape. As Batista (2003) notes, the pervasive fear of violence in Brazilian cities has a significant impact on the political, legal, journalistic, and medical spheres, reflecting a culture of fear and social inequality that traces back to the racial prejudices of the agrarian slave system.

Brazilian society has become accustomed to extreme social and political inequality. A belief, originating from colonial times, endures: that some individuals are “torturable” while others are not, and that torture and violence are effective tools for crime control. This belief is perpetuated by fear, media narratives, and political manipulation. Individuals considered “torturable” often support State brutality due to their vulnerable position in society, heightened exposure to violent crime in urban centers, and influence from the dominant media narrative. The public’s disdain for human rights can be traced back to the lingering influence of a slave-owning social structure that persists to this day. This societal dynamic often leads to a widespread acceptance of the notion that addressing crime should be done through similarly criminal means.

The State’s use of torture is a clear indication of its failure to protect citizens, and the absolute prohibition of torture is not sufficient to eradicate it. The most significant challenge is understanding how to change this authoritarian and racist institutional culture to combat the various daily, systematic, and widespread human rights violations perpetrated by authorities and institutions. Addressing these issues requires more than legal reforms; it demands a thorough transformation of the systemic biases and institutional practices that perpetuate injustice.

Moving forward, a more in-depth dissection of torture’s impact on the criminal justice system is vital, particularly its role in undermining the defense of human rights during criminal interviews. Systemic issues in these settings impede victims’ access to justice and reflect the State’s engagement in necropolitics, characterized by its failure to fulfill protective obligations and active violations of legal principles and rights. This is most evident in the use of torture, often targeting marginalized groups, to extract confessions or impose preemptive punishment, further entrenching injustice and systemic oppression. This phenomenon not only undermines the justice system’s integrity but also perpetuates cycles of violence and inequality, thereby facilitating the growth of criminal organizations.

Main challenges in defending human rights during criminal interviews in Brazil

Brazil’s colonial past, history of slavery, and military dictatorship have left a legacy of systemic rights violations, particularly evident in criminal interviews conducted under the guise of the war on drugs. Joana Domingues Vargas’ study (2012) highlights a concerning 200-year continuity in torture practices in Brazilian investigations. She

draws parallels between the torture used to extract a confession from a carpenter accused of theft during the royal family's arrival in Brazil and the brutal treatment of Francisco Viriato Corrêa, a founding member of the criminal organization Comando Vermelho, who was framed for bank robbery during the military dictatorship. Vargas' analysis of investigation records reveals a lack of structured methods for gathering evidence, where the pursuit of confessions at any cost takes precedence. Illegal practices, often central to the information obtained, are omitted from official records. This results in investigations that are designed to assign guilt before any trial, violating the rights of the accused and directly contravening Article 5, LIII of the Federal Constitution, which guarantees that "no one shall be prosecuted or sentenced except by the competent authority."

During Brazil's most recent military dictatorship, the Army Minister's Office and the Center for Information developed a manual for conducting investigative interviews. This manual, later found in the Department of Political and Social Order archives, instructed interviewers to undermine suspects' defenses, manipulate their trust, and employ intimidation tactics. These tactics included the exploitation of personal information about the prisoner's past to either impress or demoralize them, effectively making the interviewer a direct agent of violence (Magalhães, 2004). It is also meaningful to mention the fact that approximately two thousand Brazilians were tortured during this regime, and nearly four hundred were killed or disappeared. The *Brasil: Nunca Mais* research, based on records from the Military Court, documented 843 testimonies of individuals who had endured torture at the hands of the military (Cassol, 2009). Cecília Maria Coimbra (2001) argues that "blind obedience," as illustrated by Milgram's famous psychology experiment, parallels the training in the Brazilian Armed Forces and auxiliaries.⁷ In these State apparatuses, a hierarchical structure, authoritarianism, obedience, and an "us versus them" mentality foster a system where violent and torturous practices are routinely directed at the most vulnerable populations.

An emblematic case of this phenomenon is the torture of seven young individuals by the Army in Rio de Janeiro, which was a 12-hour ordeal covered by the media as the "sala vermelha" (Rodrigues and Neri, 2020). This incident occurred in August 2018. Following this ordeal, the youths were detained pre-trial for a period of one

7. According to her: "The American psychologist Milgram (1975) demonstrated, through experiments, that anyone can inflict pain on others as long as they are following orders from someone they perceive as an authority. He concluded that blind obedience to orders given by someone socially regarded as an authority leads many people to commit acts considered 'barbaric' in our civilization. This issue is linked to the training that marks the history of the Armed Forces and Military Police, not only in our country, where techniques of mistreatment and torture are applied to recruits with the aim of teaching them to kill and to commit acts that stain the category of human".

year and seven months. This case underscores issues raised by the Inter-American Commission on Human Rights (2021) in its report on Brazil, highlighting that pre-trial detention is often applied without regard for its exceptional nature and that, historically, Brazil has responded to deep, complex problems with immediate measures, frequently using illegal methods to extract confessions and promote mass incarceration, which ultimately undermines public safety. For instance, the security system arrests many individuals in flagrante delicto but fails to dismantle organized crime (Botelho; De Lira, 2020). Consequently, the cycle of violence is perpetuated, violent crime is increased, public trust in institutions is eroded, and the safety of police officers is jeopardized, as noted in the United Nations Special Rapporteur's 2016 report on torture in Brazil.

The delays in Brazil's legal system are evident in several legal measures. For instance, the Rio de Janeiro State Court's Precedent 70 states that police officers' testimonies are sufficient for an arrest, contradicting the presumption of innocence, the right to a fair trial, and the adversarial system guaranteed by the 1988 Federal Constitution. In cases involving crimes against property or drug trafficking, for instance, police testimony frequently plays a central role in the evidence. This practice enables the use of torture not only to obtain confessions but also as a tool for preemptive punishment and revenge.

This precedent, endorsed by the Special Body of the court in 2003, has been the subject of scrutiny in an opinion commissioned by the Legal Studies Center of the Public Defender's Office of Rio de Janeiro. The opinion highlighted a survey conducted by the Public Defender's Office of Rio de Janeiro, which analyzed 2,591 sentences involving individuals accused of drug-related crimes, issued between August 2014 and January 2016. The survey revealed that: i) convictions were based exclusively on the testimonies of officers who made the arrest in 53.79% of the cases; ii) in 62.33% of the cases, the arresting officers were the only witnesses; and iii) in 94.98% of the cases, security agents acted as witnesses. The opinion concludes by arguing for the annulment of the precedent or, if it is maintained, for a change in its wording (Carvalho and Weigert, 2024).⁸

8. During the editing process of this article for publication on December 9, 2024, the Rio de Janeiro Court amended the precedent. Previously, the following wording was used: "The fact that oral evidence is limited to the testimonies of police authorities and their agents does not preclude conviction." Following the amendment, the new wording is as follows: "The fact that oral evidence is limited to the testimonies of police authorities and their agents authorizes conviction when consistent with the evidence in the case file and duly substantiated in the judgment." Moving forward, it will be imperative to evaluate whether this amendment enhances the quality of criminal proceedings and judgments. If this revision proves insufficient, Precedent 70 should be repealed to align with procedural, constitutional, and human rights guarantees.

Furthermore, a recent case highlighted the constitutional violations associated with Precedent 70. In this instance, preventive detention was ordered for drug trafficking based on an arrest in *flagrante delicto* without a warrant. The judge acknowledged that it is unacceptable for police, based solely on anonymous tips or personal impressions, to violate the constitutional right to the inviolability of the home and enter people's houses to discover a crime being committed in *flagrante delicto*. It was emphasized that such abusive behaviors are exclusive to simple communities, targeting the arrest of marginalized individuals, and highlighted the unconstitutionality of Precedent 70 for violating the principle of human dignity, stating that it is "an instrument for the arrest of Black and poor individuals without the need for further evidentiary delay".⁹

Additionally, the absence of standardized custody hearings, as reported by the Association for the Prevention of Torture (APT, 2023) between July and September 2022, further highlights the deficiencies in Brazil's legal practices. Custody hearings were held outside of courtrooms in at least seven Brazilian capital cities and virtually in nineteenth. This lack of procedural integrity undermines fundamental human rights, hinders physical examinations prior to hearings, and permits police to detain individuals without complying with established criteria. This perpetuates the use of cruel, degrading, and inhumane practices (APT, 2023). The Public Defender's Office of the State of Rio de Janeiro's report (DPE-RJ, 2021) indicates that most torture complaints were submitted through the Custody Hearing Unit. This lack of uniformity in conducting these hearings directly impedes their ability to effectively address and combat institutional violence.

The same DPE-RJ report (2021) observed that most torture victims are men aged 18 to 25, with 79.9% being Black or Brown. Most reported that assaults occurred at the scene and were committed by military police officers. In 70.8% of the cases examined, the assault was reported during the custody hearing, interrogation, or sentencing. However, it was rarely considered in decision-making, often mentioned only to disqualify the violence report or claim the medical report did not confirm the injuries. The report also noted that the state Court's Precedent 70 was cited in 45% of sentences for convictions, with 75% related to drug crime convictions. These legal inadequacies perpetuate a cycle of impunity, leading to the recurrent violation of detainees' rights and the undermining of the justice system by police brutality, mass incarceration, and wrongful convictions. The focus on arrests of *flagrante delicto* in marginalized areas rather than on combating organized crime is particularly concerning. This pattern of misconduct undermines public trust in Brazilian institutions and their mission to ensure justice and security, particularly among marginalized populations.

9. Habeas Corpus 0023764-73.2024.8.19.0000, Reporting Justice Alcides da Fonseca Neto, judged on 04/05/2024.

Studies indicate a high rate of impunity for torture and coercion by authorities in Brazil, underscoring significant inefficiencies within the country's justice system. A 2016 United Nations report found that agents accused of crimes like torture are rarely imprisoned, and when they are, they are released after a short period. Conversely, Brazilian victims are often defamed and stigmatized, with authorities alleging their involvement in illicit activities to justify arbitrary actions and brutality. This phenomenon stems from the prevalent belief that torture is an effective and justifiable tool for combating crime, yet this notion is exclusively applied to those considered "torturable." This mindset can lead to an inherent association of Blackness with guilt and criminality. It contributes to systemic inequalities where factors such as race, gender, and class determine who is deemed worthy of legal recognition, endorsing the State's necropolitics.

The impunity that results from this dynamic is attributable to several factors. Firstly, the fact that violence committed by military agents against civilians is tried in military courts. While some civilian magistrates participate, accountability remains challenging because victims must report instances of torture and abuse within the very institution responsible for the misconduct. This process is hindered by ineffective investigations and exacerbated by high corruption levels within police forces and other governmental bodies across Latin America (Méndez, 2020). In this regard, the Inter-American Court, in *Radilla Pacheco vs. Mexico* (Judgment of November 23, 2009, Series C, number 209, para. 273), supports reducing the role of military courts in democratic societies, emphasizing that military jurisdiction is neither competent nor appropriate for investigating, judging, and sanctioning human rights violations.

In March 2024, the Inter-American Court of Human Rights directed Brazil to revise its legal framework to prevent military courts from adjudicating crimes by military police officers against civilians (Sentence of November 16, 2023, Series C number 507). This ruling condemned Brazil for the excessive use of force by the Military Police on May 2, 2000, against Antônio Tavares Pereira and 197 rural workers from the Landless Workers' Movement. Following Antônio's death, the investigation was prematurely closed by a Military Oversight Judge. Two years later, the defense attorneys petitioned for a writ of habeas corpus to halt the criminal proceedings, contending that the case had already been adjudicated within the military justice system. Consequently, the state's Court of Justice dismissed the criminal case. This case and the Inter-American Court's decision highlight the limitations of military courts in addressing human rights abuses and the need for reforms to strengthen accountability.

It is also fundamental to acknowledge that, in Brazil, the Public Prosecutor's Office is constitutionally mandated to exercise external oversight over police activities (Article 129, VII). This role includes holding police actions accountable for instances of excessive force, abuse of power, or other criminal conduct. As reinforced by the

Inter-American Court of Human Rights in the *Favela Nova Brasília v. Brazil* case (Sentence of February 5, 2018. Series C number 345), which emphasized the need to delegate the investigation “to an independent body distinct from the police force involved in the incident.” While the Public Prosecutor’s Office lacks the authority to directly impose penalties, it is empowered to conduct investigations and initiate legal proceedings in court when illegal activities are identified. Despite these responsibilities and its functional autonomy to address police violence, the Public Prosecutor’s Office often encounters limitations in practice. A recent example of this was the summary acquittal of the police officers involved in the killing of 14-year-old João Pedro Mattos Pinto in 2020. In this case, the judge stated that the technical report prepared by the Public Prosecutor’s Office should be assessed with caution, as it was unilaterally produced by the Office and therefore lacked impartiality. This is despite the Public Prosecutor’s Office’s constitutional role in overseeing police forces.

Furthermore, the militarized approach to policing in Brazil, marked by high rates of police brutality predominantly executed by the military police, is sustained also by the complicity of the Judiciary. This is evidenced by the 1,330 deaths resulting from police interventions in Rio de Janeiro in 2022, of which 78.3% were Black individuals (Fórum Brasileiro de Segurança Pública, 2024). Furthermore, as the DPE-RJ report, which analyzed torture records from June 2019 to August 2020, noted most assaults occurred at the scene and were committed by military police officers. Key figures in the judicial system play a vital role in ensuring the legal viability of “resistance acts,” which allow for lethal police actions without a thorough investigation. This situation persists due to a combination of a lack of institutional interest in implementing concrete oversight measures and resistance from bodies that would be directly impacted by such measures. Additionally, legal professionals may be influenced by a mentality that perceives individuals as “torturable,” leading to premature requests for dismissal of police inquiries rather than addressing technical issues.

The need for accountability was also underscored in a recent ruling by the *Inter-American Court in the Honorato v. Brazil* case, also known as “Operação Castelinho” (Sentence of November 27, 2023, Series C number 508). This incident involved São Paulo’s Military Police, who executed 12 individuals on a rural highway in March 2022. In its 2023 decision, the Court mandated that Brazil adopt stronger accountability measures, including the implementation of geolocation devices in police vehicles and uniforms and the temporary suspension of officers involved in fatal incidents until their reinstatement is approved by the Internal Affairs Department. These measures underscore the pressing need for substantial reforms to achieve justice and reduce impunity in Brazil’s policing system.

Breaking the cycle of torture: A path toward humane and effective criminal interviews through the Méndez Principles

In 2016, Juan E. Méndez, an Argentine lawyer and then United Nations Special Rapporteur, presented a groundbreaking report on torture to the UN General Assembly. The report identified several systemic issues contributing to mistreatment and violations of rights. These issues included pressure from politicians, judges, and supervisors on law enforcement to resolve cases quickly, with performance evaluations focused on case closures and convictions, often overlooking ethical considerations. The report also highlighted a significant lack of forensic resources, training in modern investigative techniques, and proper equipment. This led law enforcement to view methods such as torture, coercion, or mistreatment as the quickest means of obtaining confessions or other information. Judicial practices that allowed convictions based solely on confessions, without the requirement of corroborating evidence, further compounded this issue. Finally, the report identified the absence of procedural safeguards during questioning, enabling these abuses to continue unchecked and weakening protections against torture. Many of these systemic issues have been identified in the Brazilian context, where similar institutional failures have been reported, contributing to the persistence of torture and rights violations within the country's criminal justice system, as previously discussed in this article.

In response to these organizational deficiencies, the Méndez Principles — formally known as the Principles on Effective Interviewing for Investigations and Information Gathering — were adopted in May 2021, with the support of the Anti-Torture Initiative, the Association for the Prevention of Torture, and the Norwegian Centre for Human Rights (NCHR). This framework represents a significant step toward establishing humane and effective standards for interviewing practices, emphasizing the protection of human rights and adherence to due process in criminal investigations.

Developed by a consortium of over 110 experts from more than 40 countries, these principles aim to enhance the effectiveness and reliability of interviews worldwide. They respect the dignity of interviewees, maintain the professionalism of interviewers, and enforce the absolute prohibition of torture and ill-treatment across diverse contexts. The Méndez Principles are notable for their interdisciplinary approach, drawing from psychology, criminology, sociology, neuroscience, and medicine, making them a comprehensive and well-rounded guide for ethical interviewing. The document is structured around six core principles, which establish effective interviews:

- Are informed by science, law, and ethics (Principle 1: Fundamentals);
- Constitute a comprehensive process for gathering accurate and reliable information by implementing corresponding legal safeguards (Principle 2: Practice);

- Require identifying and addressing the needs of vulnerable interviewees (Principle 3: Vulnerability);
- Constitute a professional activity that requires specific training (Principle 4: Training);
- Require transparent and accountable institutions (Principle 5: Accountability);
- Require robust national measures for their implementation (Principle 6: Implementation).

The Méndez Principles are not a training manual, but rather a universal protocol that establishes fundamental guidelines for creating interview policies that respect human rights. The objective of the Méndez Principles is to address deficiencies in international human rights law that pertain to investigative procedures. They promote a method based on the establishment of rapport between the interviewee and interviewer, focusing on the clarification of facts rather than on confessions. It is considerable to note that these norms do not constitute an international treaty in the conventional sense. Instead, they are classified as a soft law instrument, meaning they do not possess the force of law and do not result in a coercive sanction enforceable *erga omnes*. However, they can produce numerous effects and drive significant internal transformations, as was the case with the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948. Despite its recent development, there is already research examining its implementation in different countries. Initial studies focus on comparing existing national legal mechanisms with the principles outlined in the document, with examples from Poland, Türkiye, and Lithuania (Baneviciene, 2023; Demirden, 2023; Solodov and Laurinaityte, 2024).

The safeguards recommended by the principles include the right to clear information about procedures and rights, access to a lawyer and interpreter, and measures to ensure that interviewees are in adequate mental and physical condition. To protect the memory, physical, and mental integrity of interviewees, it is imperative that they are not negatively impacted by environmental conditions or authorities. This necessitates a flexible approach, incorporating active listening in a non-authoritarian environment, while steering clear of informal conversations. Furthermore, it is essential to affirm that individuals should not be questioned as witnesses to circumvent legal requirements, thus ensuring the effective application of the following safeguards during the interview process: the right to be informed of their rights; the right to remain silent; the right to be informed of the reasons for their detention and any charges at the time of detention; access to interpretation; the right to notify a family member or third party about their detention; access to legal counsel, including through legal assistance; access to a doctor and an independent medical examination; contact with the outside world; documentation of detained individuals; full

recording of the interview; the right to review and sign the interview record; prompt presentation before a judge or other judicial authority; and access to effective, independent complaint mechanisms and oversight bodies.

It is crucial to underscore that these rights extend beyond the interview phase, as the risk of inhumane treatment is also heightened during arrest or detention and prior to arrival at a formally designated facility. Consequently, the transportation of detained individuals should be meticulously documented, and their fundamental needs must always be met. During this period, risks include excessive use of force, improper use of restraints, improvised coercive questioning, and prolonged confinement in transport vehicles, which could amount to torture. Furthermore, interviewees must be in a sound mental state to provide valid evidence during the interview, have the right to legal counsel, and the interview should be planned and reviewed. Public officials are responsible for facilitating communication with third parties and for documenting this communication, except in extraordinary circumstances where this may harm the investigation.

Attention should be drawn to the inherent power imbalance that characterizes interactions with authorities during interviews, particularly in contexts involving interviewees who may be vulnerable. While the concept of vulnerability is dynamic and evolving, characteristics such as belonging to a minority or socioeconomically marginalized group can exacerbate it. In Brazilian law, vulnerability is employed in legal provisions to highlight the need for specific protection of rights, thereby enabling material and procedural safeguards, as seen in cases of sexual abuse of vulnerable individuals or in the vulnerability of consumers in commercial relationships (Barretto and Szczupak, 2021). The concept of vulnerability is broad and requires a definition that extends beyond mere class or identity-based relations. It can also stem from a lack of access to institutions that provide support and autonomy, protecting individuals from potential harm. The Méndez Principles underscore that this vulnerability can be legally defined or identified by the interviewer.

The Principles emphasize the significance of training all professionals involved in conducting interviews based on their content. This training is intended to enable them to adhere to international and national law, institutional norms, and the highest professional standards. This approach aims to bring a change in institutional culture, breaking paradigms that foster violence and authoritarianism. The document underscores the crucial role of accountability in ending the cycle of impunity that persists within the justice and security systems. This is not only relevant to cases of torture by authorities but also to coercive practices in the investigation of common crimes. Accountability should extend beyond holding individual security personnel responsible, as many are often compelled to follow orders from their superiors. It is urgent to implement clear operational guidelines for the use of State force and enhance transparency regarding the criteria justifying such use (Hirata and others, 2021a).

Despite the obstacles to guaranteeing human rights during interviews and combating torture and police violence, implementing these measures would significantly advance the country's security and justice systems. These include enhancing the quality of criminal interviews with more effective and respectful techniques, strengthening the rights of interviewees and, consequently, reducing errors and wrongful convictions, and promoting a culture of respect for human rights.

The implementation of the Méndez Principles will require a multifaceted approach, including the commitment of justice system institutions, legal frameworks, political will, regulatory measures, and institutional changes. These efforts must be complemented by a dedication to improving the methods and conditions under which interviews are conducted, particularly by public security operators. To that end, the establishment of new frameworks for progressive development is essential to enhance the effectiveness of justice. Such frameworks should include a review and standardization of information collection and analysis procedures in interviews. This is particularly indispensable given the country's current lack of mechanisms to ensure comfortable and non-authoritarian settings for hearings and interrogations. Furthermore, public policies aligned with the international document are necessary to protect police officers from the stress that, as seen, has led to high suicide rates in Brazil. The vulnerability of the population, exacerbated by the violence of necropolitics, must be mitigated by reducing the militarization of security forces. The hierarchical structure, supported by a "us versus them" mentality and the belief that police officers are heroes who cannot seek help for mental health issues, can lead to their role as agents of violence, creating victims both within and outside the institution.

The Méndez Principles are crucial for bridging the gap between practice and theory, ensuring that torture does not continue to serve as a tool of the dominant ideology to maintain power over the most marginalized. As previously mentioned, the principles address many of the issues identified in this article. The notion that torture is an effective tool, as evidenced in Brazil, must be countered through effective training of law enforcement and legal professionals, as outlined in the international document, to challenge the societal acceptance of brutality. It is vital to allocate resources towards the training of current professionals and the education of students in conducting interviews, ensuring that they are conducted using the rapport method. Currently, training on how to conduct interviews with victims and witnesses is not included in the training of legal professionals (Cecconello, Avila, and Stein, 2018).

The Mendez Principles are closely tied to addressing systemic issues within Brazil's justice system, particularly the legacy of torture, racial injustice, and impunity. The Mendez Principles provide a framework to counter this legacy by promoting measures that ensure individuals, particularly marginalized groups, are protected from abuse. Adherence to the Mendez Principles would contribute to the dismantling of

the entrenched culture of violence in Brazil's justice system, thereby facilitating the development of a more just, humane, and accountable legal framework.

As previously mentioned, effectively combating organized crime and promoting access to justice necessitates enhancing investigative capacities. Given Brazil's current context of institutionalized brutality, the adoption of the Méndez Principles would be a crucial step forward. Immediate action is required to dismantle these parallel power structures by fostering greater trust in public institutions and addressing historical inequalities. Key issues that must be addressed urgently include the excessive use of preventive detention, the institutional silence that enables unlawful searches in marginalized communities, the problematic Rio de Janeiro state Court's Precedent number 70, and the lack of uniformity in custody hearings. It is also key to implement the Inter-American Court of Human Rights' rulings, which align with the Méndez Principles. These include enhancing accountability by restricting military courts' jurisdiction over crimes committed by military police against civilians, ensuring independent investigations, deploying geolocation devices in police vehicles and uniforms, and suspending officers involved in fatal incidents.

In addition to disseminating the content of the Méndez Principles, it is crucial to gain a comprehensive understanding of Brazil's police institutions, including their structure, history, and specific needs, to effectively implement these principles and address the practice of torture as a systemic issue. Transforming institutional culture necessitates meaningful dialogue with civil society to gain a deeper understanding of these systems, reduce the vulnerability of interviewees, and combat the widespread mistrust in public institutions.

Final considerations

Despite Brazilian constitutional principles that ensure the presumption of innocence, the contradictory and broad defense, among others, torture practices persist, due to the lack of change in the authoritarian and racist institutional culture. To strengthen democracy, it is essential to democratize the criminal process, empower the passive subject, and adhere to constitutional principles. This study aims to identify the constitutional principles and legal rights governing criminal investigations and interviews in Brazil, analyze the role of necropolitics in power dynamics, explore challenges to defending human rights within the Brazilian penal system, and introduce the Méndez Principles within this context. The study examined the contradiction between legal commitments and the persistent practices of torture and police brutality, sustained by contemporary policies, social attitudes, and institutional complicity.

The persistence of torture and police brutality in Brazil's security and justice systems highlights a deeply ingrained issue that transcends mere historical legacy, revealing a complex interplay between past injustices and contemporary institution-

al practices. This study demonstrates that despite formal constitutional protections and legal frameworks designed to uphold human dignity, systemic violence remains a pervasive reality, particularly affecting marginalized communities. The historical progression from colonial-era violence to modern-day abuses underscores a persistent interplay between power and race that perpetuates human rights violations.

The concept of necropolitics, as defined by Achille Mbembe, offers a framework for understanding the strategic use of violence by States to control and marginalize specific populations. The societal acceptance of such practices points to a pervasive normalization of brutality. It has been demonstrated how necropolitics can manifest both actively and passively. Torture, for example, actively violates constitutional principles and rights, while passively denying victims access to justice. This failure by the State to protect both the individual under investigation and the crime victim indirectly fosters the growth of criminal organizations. By examining patterns of institutional decision-making and their lethal outcomes, it becomes evident that marginalized populations are systematically excluded from the protections of citizenship, including police killings and mass incarceration. Systemic neglect further endangers these individuals, leaving them vulnerable to harm and violating their dignity in both life and death.

The discrepancy between constitutional guarantees and actual practices underscores the urgent need for systemic change. This includes not only enforcing existing laws with greater rigor but also addressing the cultural and institutional biases that perpetuate torture and brutality. The ongoing challenges related to these issues erode the credibility of Brazil's democratic institutions and the rule of law, thereby testing the very foundations of justice and human rights. Addressing these issues necessitates a multifaceted approach, including enhancing accountability mechanisms, fostering a cultural shift towards genuine respect for human rights, and implementing policies that address underlying socioeconomic inequalities. The Méndez Principles present a promising framework for ensuring more humane and effective interview practices. These principles emphasize the importance of respecting the rights and integrity of all individuals by the rapport method, which focuses on building mutual trust between interviewees and interviewers, prioritizing the clarification of facts over obtaining confessions.

To address the discrepancy between legal standards and actual practices, a coordinated effort is necessary to confront and dismantle the entrenched structures of power that perpetuate violence. The study calls for a comprehensive and systemic overhaul of Brazil's security and justice systems, grounded in human rights protections and focused on addressing the root causes of racial violence and institutionalized torture. To achieve these goals, reform efforts must extend beyond legal texts and be accompanied by a cultural shift within law enforcement agencies, where the protection of human dignity is prioritized over punitive approaches. Judiciary must

be held accountable for its complicity in perpetuating impunity and be trained to apply human rights standards consistently and rigorously. For practitioners and human rights advocates, the findings underscore the need for more effective strategies to challenge the normalization of torture, including the implementation of independent oversight mechanisms.

Another necessary reform is the requirement for public security agencies and the judiciary to adopt more transparent criteria for justifying the use of force and to hold their officers accountable for violent actions. The Public Prosecutor's Office must also rigorously oversee police activity, particularly in cases involving excessive force or police violence. Furthermore, it is vital to implement the Inter-American Court of Human Rights' rulings in the cases mentioned involving Brazil as a subject for violation of human rights.

Despite its significant contributions to understanding the persistence of torture in Brazil, this study acknowledges several limitations. First, the research scope does not permit a comprehensive exploration of all the mechanisms of torture that occur within Brazil's varied legal contexts, including regional differences in the enforcement of laws and practices. Secondly, while the study examines the role of international human rights frameworks, it does not explore in depth how these frameworks have been implemented or resisted by local actors, such as judges, prosecutors, and police officers. Future research could expand on these areas, offering a more nuanced understanding of the interplay between international human rights law and Brazil's domestic legal system. Additionally, further empirical research is needed to evaluate the effectiveness of legal reforms, oversight mechanisms, and advocacy efforts aimed at reducing torture and abuse within the criminal justice system. Longitudinal studies could offer insights into the lasting impact of policy changes and provide a better understanding of how legal reforms can address entrenched societal violence.

In conclusion, the persistence of torture in Brazil remains a critical issue that demands urgent and sustained action. This article has emphasized the need to address both the historical and systemic factors that perpetuate torture, while also acknowledging the role of international human rights frameworks in guiding reform efforts. To overcome the pervasive challenges of the past that continue to shape Brazil's present reality, profound and comprehensive transformations are imperative within the country's legal and political systems. The full implementation of the Mendez Principles, in conjunction with a comprehensive commitment to human rights and racial justice, is essential to ensure that torture is not only prohibited but actively prevented. This research urges policymakers, legal professionals, and human rights advocates to redouble their efforts to dismantle the entrenched structures of violence and impunity that plague Brazil's justice system. By doing so, they will contribute to strengthening the Constitutional State and rebuilding public trust in institutions, ultimately working toward a more just and equitable society for all.


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