

**Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolution 26/12.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **alleged death of 101 persons in the State of Espiritu Santo, Brazil, over five to six days.**

According to the information received:

On 3 February 2017, a deadlock in wage negotiations between military police officers and state officials in the State of Espírito Santo, Brazil, led to a de facto strike of 10.000 military police officers. As military personnel are forbidden to engage in strikes, the wives and partners of military police officers had gathered at the Military Police headquarters to impede the exit of police forces to patrol the streets until a salary raise was agreed. The wage negotiations had been prompted by a six year delay in salary increases while the cumulative living cost inflation had increased by 50 per cent. The de facto strike resulted in a total disruption of policing services. As a result, mobs started looting local commerce and violence has quickly run rampant. Chaos took over the cities of Vitória, Cachoeiro do Itampemirim and Guarapari, where public services, such as schools, the townhouse, the courthouse and public transportation, as well as general commerce and shopping malls were shut. The population at large remains sieged in their homes, counting on the available food stocks and other living materials.

Taking advantage of the policing vacuum, criminal gangs, death squads and vigilante groups took over the streets. There are reports that militia and other criminal groups seized the opportunity to conduct revenge acts, collect debts by force and attack opposing groups. Death squads are also attempting to "cleanse" the streets of anyone suspicious of criminal activity. An audio attributed to the Scuderie Le Cocq ("the Death Squad") that was officially dissolved by the judicial authorities in 2004 but had run unpunished in the State of Espírito Santo State in the last decade, declared that the group would ravage the metropolitan region of Vitória, by perpetrating a series of extrajudicial killings against supposed criminals.

One hundred and one persons have died as a result of this violence, according to the Civil Police Union, with an alarming rate of 25 to 30 homicides per day since 4 February.

The Civil State Police, in charge of criminal and forensic investigations, decided to close the public morgue, in view of the impossibility to receive and deal with the coming corpses and the precarious conditions in police facilities where the morgue has room for 30 bodies. There are reports of cadavers being left on the streets in the main cities. Forensic exams are sparse, as crime scenes are unreachable without proper police cover. Due to the prevailing conditions, other crimes, such as rape, stealing and looting, remain unaccounted or unreported.

Despite the chaos and violence that have engulfed the State as a result of the strike, the State authorities have taken a hard stance by refusing to engage in negotiations until the police officers return to work. In addition, the Military Prosecutor issued a notification addressed to the officers and families protesting, setting a four hours deadline to end the *de facto* strike and authorizing the hierarchy of the Military Police to make use of all means, including force, to compel officers to resume their functions.

In the late afternoon of 6 February, around 200 officers of the army troops from the Vila Velha Battalion were deployed to patrol the streets, in a state with a population of roughly four million inhabitants. In the late afternoon of 7 February, the Presidency of the Republic deployed the Special Security Force, a hybrid unit that intervenes in cases of emergency. However, concern has been expressed that this unit lack the specific training to engage in policing functions and questions have been raised about their aptitude to comply with human rights standards. In the past, troops under this unit have allegedly proven intolerant to social protests and acted violently towards civilians.

The Government authorities so far have failed to take measures to ensure the prompt and effective investigation of the aforementioned killings. While the State of Brazil has a Federal Police team designed to investigate mass violations, specifically by death squads and vigilante groups, they have not been deployed due to a reported lack of political will.

Grave concern is expressed about the deadlock in salary negotiations between Government and military police officers in the State of Espírito Santo, which has led to a vacuum of policing services and subsequently to a situation of generalized violence and 101 deaths in less than six days. We express further concern at reports of rampant gang and death squad activity in the streets of Espírito Santo which has not been met with adequate state responses that guarantee effective protection to the population. We are

further concerned at allegations that the deployment of a reduced number of military forces and of the Special Security Force to the State of Spirit Santo may be inadequate to address the policing needs in the State, particularly in view of their alleged lack of specific training to engage in policing functions and comply with relevant human rights standards. Furthermore, we express concern about the lack of official data and of forensic and criminal investigations into these deaths.

In view of the urgency of the matter, we urge your Excellency's Government to adopt all necessary measures to protect the life, security and physical integrity of the population in the State of Espírito Santo. **In particular we urge you to immediately resume open and effective negotiations with the military police to facilitate their prompt resumption of policing functions.**

We also urge you to adopt effective measures **to investigate, prosecute and sanction those responsible for the alleged violations, including members and the leaders of death squads, militias, and criminal gangs.**

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above mentioned allegations are in contravention of the right to life, liberty and security as set forth in article 3 of the Universal Declaration of Human Rights (UDHR) and 6 of the International Covenant on Civil and Political Rights (ICCPR), acceded by your Government on 24 January 1992.

Under human rights law, the State is not only prohibited from directly violating the right to life, but it is also required to protect the right to life against actions by non-State actors. This obligation includes taking all appropriate measures to prevent the deprivation of life by non-State actors, as well as to investigate, prosecute and punish non-State actors that have deprived others of their life. International human rights standards have further determined that non-State actors may include armed groups, death squads, militias, as well as corporate actors, criminal gangs or private individuals where there is pattern of killings.

For instance, in its General Comment 6, paragraph 3, the Human Rights Committee noted that under article 6 (1) of the ICCPR States parties should take measures to prevent and punish deprivation of life by criminal acts.

In its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by private persons or entities. This includes the duty to take

appropriate measures to prevent, investigate, prosecute and punish those responsible and repair the damage caused by private persons or entities. A failure to investigate violations of the Covenant and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR. (CCPR / C / 21 / Rev.1 / Add.13, paras. 8, 15 and 18).

The Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions establish the obligation of States to ensure effective protection to those who are in danger of extra-legal, arbitrary or summary executions (Principle 4) and insist on the duty of the State to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions (Principle 9). The investigation shall include an adequate autopsy, and collection and analysis of all physical and documentary evidence.

Finally, international standards suggest that the provision of policing services is part and parcel of the responsibility to protect. The Code of Conduct for Law Enforcement Officials, stipulates that law enforcement officials shall at all times fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

In paragraph 4 of General Comment No. 31, the Human Rights Committee noted that the obligations contained in the Covenant are binding on every State as a whole. It further established that all branches of government (executive, legislative and judicial), and other public or governmental authorities, at all levels - national, regional or local - are in a position to engage the responsibility of the State Party.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any criminal investigation carried out in relation to the above mentioned killings. If these investigations have yet to take place, or if they have been inconclusive, please explain why.

3. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate what measures have been taken to protect the life, security and physical integrity of all persons in the State of Espírito Santo since the eruption of the conflict.
5. Please indicate the reasons for the continued deadlock in wage negotiations, even after the conflict has led to serious violence and an escalating number of deaths. Please provide information on the current status of these negotiations and when it will be expected for military police officers to resume their vital policing functions.
6. Please indicate how the State Government's response to the conflict with the police and the escalating violence complies with your Excellency's Government obligation to protect the right to life of all persons, in particular through the provision of vital policing services

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

I intend to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions