

**Mandate of the Working Group of Experts on People of African Descent; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.**

REFERENCE:  
AL BRA 7/2017

30 August 2017

Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 27/25, 35/15 and 33/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **extrajudicial killings of children in favelas of Rio de Janeiro in the context of police anti-drug operations.**

According to the information received:

On 25 March 2017, Mr. [REDACTED], 17 years old, was killed by the Military Police of Rio de Janeiro during a military police operation. According to witness testimony, the teenager was shot more than once. After the first shot, he fell down and pleaded for help, but instead was killed. The Military Police of Rio de Janeiro admitted responsibility for the death and claimed that the 17-year-old was a drug dealer.

On 30 March 2017, Ms. [REDACTED], a 13 year old, was killed by rifle fire inside Daniel Piza Junior High School, which is located in the middle of Acari, Pavuna and Costa Barros neighborhoods in Rio de Janeiro. The Military Police claimed that she was killed by a stray bullet, despite reports that she was hit by at least three shots among the eight fired by police officers.

On 22 April 2017, Mr. [REDACTED], 17 years old, was allegedly killed by a shot in the neck, his way to work near the Complexo do Alemão, Rio do Janeiro. It is reported that there was confrontation between police officers and drug dealers in the neighborhoods, he attempted to hide from gunfire albeit unsuccessfully.

On 26 April 2017, Mr. [REDACTED], 16 years old, was reportedly shot by the police in the neck during a demonstration which took place in Complexo do Alemão, Rio de Janeiro, in response to the death of Paulo Henrique de Oliveira.

On 4 July 2017, Ms. [REDACTED], 10 years old, was reportedly shot in the head by a police officer in front of her house in Favela Camarista Méier, Rio de Janeiro.

Grave concern is expressed at the above-mentioned five killings of children, which, if confirmed, constitute a violation of article 3 of the Universal Declaration of Human Rights, as well as of article 6 of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the right of every individual to life and security and not to be arbitrarily deprived of life.

We are grateful to your Excellency's Government for the additional information provided, including the investigation initiated into these killings. We also take note of your Government's commitment to re-instate Federal level youth policies, such as Juventude Viva, seeking to sensitize state authorities.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to my attention, we would therefore 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 killings.
2. Please provide any additional information on the ongoing investigation into the extrajudicial killings of the five children.
3. Please provide information on the number of law enforcement personnel prosecuted and convicted, or otherwise held accountable, for the killings of persons during anti-drug operations in Rio de Janeiro.
4. Please provide detailed information about the measures taken to effectively protect, and ensure the safety of civilians, including children, during anti-drug operations in Rio de Janeiro.
5. Please provide detailed information on the progress in the implementation of the recommendations, and in particular in relation with police accountability, formulated by the former Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, in the mission report after his visit to Brazil (A/HRC/11/2/Add.2), 23 March 2009.
6. Please provide detailed information on the progress in the implementation of the recommendations, particularly in relation to police accountability,

violence perpetrated by the police and security forces against young Afro-Brazilians, and the practice of racial profiling by the police, formulated by the Working Group of Experts on people of African descent in its mission report after its visit to Brazil (A/HRC/27/68/Add.1), 23 September 2014, along with steps taken to implement the Durban Declaration Program of Action (2001) and the Program of Activities of the International Decade for People of African Descent (A/RES/69/16), 1 December 2014, in relation to abovementioned issues.

We would appreciate receiving a response within 60 days.

We wish to point out that in 2009, the former Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, had also assessed large scale police operations in Rio de Janeiro, and specifically in the Complexo do Alemão (A/HRC/11/2/Add.2). We wish to express serious concern that, eight years after this assessment of violence and extrajudicial killing by the police in Rio de Janeiro's favelas, the use of lethal force has reportedly increased and civilians, including children, continue to lose their lives at the hands of the law enforcement officials. The repeated use of lethal force suggests a failure by the Brazil's Government to take precautions to prevent the loss of lives. In this regard, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and to ensure the accountability of any person responsible for those violations.

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 our highest consideration.

Sabelo Gumedze  
Chair-Rapporteur of the Working Group of Experts on People of African Descent

Agnes Callamard  
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dainius Puras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

## Annex

### Reference to international human rights law

We wish to draw your Excellency's Government's attention to relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979 and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990), provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to this instrument, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. Law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. The use of force and firearms must as far as possible be avoided, using non-violent means before resorting to violent means. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance should be provided as soon as possible when necessary.

We would like to remind your Excellency's Government the obligation to carry out thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions as set forth in principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. This principle was reiterated by the Human Rights Council at its 26th Session in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions". The Council added that this obligation includes identifying and bringing to justice those responsible; granting adequate compensation to the victim or his family; and taking steps to end impunity and the recurrence of such executions. (A/HRC/26/12, Op. 4).

Additionally, these allegations, if true, are also in contravention of article 6 of the Convention on the Rights of the Child, which declares that all children have an "inherent right to life". Moreover, the Organization of American States<sup>1</sup> highlighted in its Report on the Situation of Human Rights in Brazil that article 227 of the Brazil's Constitution stresses that it is "the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life...".

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<sup>1</sup> Report on the Situation of Human Rights in Brazil, para. 13-14.  
<http://www.cidh.oas.org/countryrep/brazil-eng/chaper%205%20.htm#Torture>



We would like to recall that the arbitrary deprivation of life extends to summary executions by military and police, and the unnecessary use of lethal force in the context of drug enforcement. In this connection, we would like to recall the commitment articulated in the outcome document of UN Special Session on the World Drug Problem<sup>2</sup>, which took place in April 2016, and where States reaffirmed inter alia the need to address the key causes and consequences of the world drug problem, including those in the health, social, human rights, economic, justice, public security and law enforcement fields, in line with the principle of common and shared responsibility, and recognized the value of comprehensive and balanced policy interventions. We, therefore, urge States to make bold commitments towards the reduction of violence related to drug enforcement through the strengthening of human rights protections and the rule of law.<sup>3</sup>

In this connection, we would like to underline that criminalisation of drug consumption and possession for personal use has contributed to a range of negative consequences for the health, security, and human rights of individuals and communities across the globe. Excessively punitive drug enforcement policies only contribute to and worsen existing violent criminal drug markets.

As the Special Rapporteur on the right to health has underlined ([A/65/255](#), 2010), the existing international system of drug control has focused on creating a drug-free world, almost exclusively through use of law enforcement policies and criminal sanctions. Mounting evidence, however, suggests this excessively punitive approach has failed, primarily because it does not acknowledge the realities of drug use and dependence. This regime has not achieved its stated public health goals and has resulted in countless human rights violations. People who use drugs may be deterred from accessing services owing to the threat of criminal punishment, or may be denied access to health care altogether. Criminalization and excessive law enforcement practices also undermine health promotion initiatives, perpetuate stigma and increase health risks to which entire populations — not only those who use drugs — may be exposed. The Special Rapporteur recommends that human rights be integrated into the international response to drug control, through use of guidelines and indicators relating to drug use and possession, and that the creation of an alternative drug regulatory framework be considered. Member States should inter alia reform domestic laws to decriminalize or de-penalize possession and use of drugs, and increase access to controlled essential medicines.

We would also like to recall that the Durban Declaration and Programme of Action (2001) and the Programme of Activities of the International Decade for People of

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<sup>2</sup> [A/RES/S-30/1](#), Our joint commitment to effectively addressing and countering the world drug problem, May 2016

<sup>3</sup> [Joint Open Letter](#) by the UN Working Group on Arbitrary Detention; the Special Rapporteurs on extrajudicial, summary or arbitrary executions; torture and other cruel, inhuman or degrading treatment or punishment; the right of everyone to the highest attainable standard of mental and physical health; and the Committee on the Rights of the Child, on the occasion of the United Nations General Assembly Special Session on Drugs, April 2016

African Descent (A/RES/69/16), urges States, including their law enforcement agencies, to design and fully implement effective policies and programmes to prevent, detect and ensure accountability for misconduct by police officers and other law enforcement personnel which is motivated by racism, racial discrimination, xenophobia and related intolerance, to prosecute perpetrators of such misconduct, and to eliminate racial profiling.