

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; the Working Group of Experts on People of African Descent; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; the Special Rapporteur on extreme poverty and human rights; and the Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
AL BRA 3/2018

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women, its causes and consequences; Working Group of Experts on People of African Descent; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; Special Rapporteur on extreme poverty and human rights; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 35/15, 34/9, 34/5, 32/19, 36/23, 34/35, 32/2, 34/3, 35/19 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of Ms. **Marielle Franco** and her driver.

Ms. Marielle Franco was an Afro-Brazilian human rights defender working for the rights of women, people of African descent, LGBT people, young people living in the favelas of Rio de Janeiro and socially excluded communities. As an elected member of the City Council of Rio de Janeiro, she identified herself as a woman, as a feminist, as black, as *favelada*, as bisexual and as married to another woman. Through her political work she was committed to fighting racial discrimination, in particular in the context of the 'war on drugs' and the disproportionate impact on black people living in favelas. At the Municipal Council, she defended the rights of excluded communities and persons. She had previously denounced police abuses and extrajudicial executions and the decree issued on 16 of February 2018 transferring public security to the military police in the

State of Rio de Janeiro. In the last few days before her killing, she had been appointed rapporteur for a special commission that the city council created to monitor the ongoing federal intervention in policing Rio de Janeiro as well as the militarization of public security forces. It is reported that a few days before the killing, Ms. Franco denounced the violent actions of the military police in the favela of Acari, located in the Northern region of the city of Rio de Janeiro.

According to the information received:

On 14 March 2018, Ms. Marielle Franco and her driver were shot dead in a car while returning from a public event named "Young Black Women Moving Structures". Reportedly, a car pulled up alongside theirs and opened fire. Ms. Franco was shot four times in the head out of nine shots directed towards the rear window of the car. A press officer who worked for Ms. Franco, sitting in the back seat during the attack, was reportedly also injured. Preliminary information about ammunition used appears to indicate that they were of a type originally sold to the Federal police.

Very grave concern is expressed at the killing of Ms. Marielle Franco and her driver, which may be related to Ms. Franco's legitimate exercise of her right to freedom of expression, to her participation in political and public life, to her human rights work for residents living in informal settlements and for denouncing excessive use of force by the Police, extrajudicial killings and increasing militarization of policing that disproportionately impact Afro-Brazilians. Serious concern is also expressed that the killing of Ms. Marielle Franco and her driver is the result of intersecting forms of discrimination based on her Afro-Brazilian identity as well as her work as a defender of the human rights of women and youth of African descent, as well as discriminated and socially marginalized communities. Brazil has the fifth highest homicide rate in the world, and, in this context, deep concern is also expressed about the budget cuts due to austerity measures in the country that have seriously weakened gender-based institutions at the Federal level.

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 mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details, and where available the results, of any investigation carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full

details of any arrests or prosecutions which have been undertaken in this case.

3. Please indicate what measures are being taken to ensure that human rights defenders are able to carry out their legitimate work without fear of threats or acts of intimidation and harassment of any sort and particularly to ensure that women human rights defenders can exercise their legitimate work in defense of women's rights.
4. Please provide detailed information about the measures taken by the authorities to prevent reprisals against human rights defenders and those working with them.
5. Please provide detailed information about the measures taken by the authorities to protect those who participate in political and public life against violence.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we call on the Government to ensure that investigations into the killings are conducted promptly, effectively and thoroughly, with independence, impartiality and transparency and fully in line with international standards.

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

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Leilani Farha
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Michel Forst
Special Rapporteur on the situation of human rights defenders

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Michal Balcerzak
Chair-Rapporteur of the Working Group of Experts on People of African Descent

E. Tendayi Achiume
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Victor Madrigal-Borloz
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orientation and gender identity

Juan Pablo Bohoslavsky
Independent Expert on the effects of foreign debt and other related international financial
obligations of States on the full enjoyment of all human rights, particularly economic,
social and cultural rights

Philip Alston
Special Rapporteur on extreme poverty and human rights

Alda Facio
Chair-Rapporteur of the Working Group on the issue of discrimination against women in
law and in practice

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

The above mentioned allegations appear to be in contravention of article 6 (1) of the International Covenant on Civil and Political Rights, acceded by Brazil on 24 January 1992, which provides for the right to life, security and not to be arbitrarily deprived of life.

In its General Comment 6, paragraph 3, the Human Rights Committee noted that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts as well as to prevent arbitrary killing by their own security forces. In addition, 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, which 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 (CCPR / C / 21 / Rev.1 / Add.13, paras. 8 and 18). The Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, require that relevant State institutions have the responsibility to undertake thorough, prompt and impartial investigations in all suspected cases of extra-legal, arbitrary and summary executions. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR. In general Comment 35, the Human Rights Committee recalled that the right to personal security obliges States parties to take appropriate measures to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors.

With regards to excessive use of force and extrajudicial killings targeting Afro-Brazilians, we would further like to remind your Excellency's Government of its obligations under the the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by Brazil on 27 March 1968. Article 2(1) prohibits States Parties from engaging in any act or practice of racial discrimination and obliges them to ensure that all public authorities on the national and local levels act in conformity with this obligation. Article 5(b) requires States Parties to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law. This includes the right to personal security and protection by the State against violence or bodily harm, regardless of whether harm is inflicted by government officials or by any individual group or institution. Pursuant to article 6, States must not only ensure the effective protection against racial discrimination of everyone within their jurisdiction, but also provide access to remedies and adequate reparation to victims or their families.

We moreover refer to the right to freedom of opinion and expression, guaranteed under article 19 of the ICCPR. In particular, we would like to remind your Excellency's Government that in the context of political discourse, involving public figures, the value placed by the Covenant upon inhibited expression is particularly high (CCPR/C/GC/34).

Furthermore, we would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Moreover, we refer to Article 1 of the Declaration on the Elimination of Violence against Women which defines "violence against women" as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Article 7 (c) of the Convention on the Elimination of All forms of Discrimination against Women further requires that States Parties "take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, [...] ensure to women, on equal terms with men, the right [...] to participate in non-Governmental organizations and associations concerned with the public and political life of the country". In this context, we also refer to General Assembly resolutions 68/191 and 70/176 on taking action against gender-related killing of women and girls. We also refer to the report of the Special Rapporteur on violence against women, its causes and consequences, on gender-related killings (A/71/398).

Finally, we refer to article 3 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, which provides that "Every woman has the right to be free from violence in both the public and private spheres"; and article 4 that provides for every woman "the right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making".