

Justiça Global's comments on the recommendations of the Report of the Working Group on the Universal Periodic Review – Brazil¹

Comments on recommendation No. 119.62

[119.62. That other state governments consider implementing similar programmes to Rio de Janeiro's UPP Police Pacifying Unit (Australia)]

Currently, there are 38 Pacifying Police Units (UPPs) operating in the favelas and low-income suburbs of the State of Rio de Janeiro. This project, from the State of Rio de Janeiro's Public Security Secretariat (SESEG), was created on the grounds of regaining control over regions long ruled by retail drug traffickers, by adopting the community-policing model (articles 1 and 2 of the Decree 42787, dated of January 2011). The presence of UPPs has established a repressive atmosphere and intensified surveillance, creating curfews, prohibiting leisure activities and maintaining a long-standing process of criminalization of cultural events. Many residents were (and still are) being framed for "contempt of authority" or "disobedience" – producing a significant increase in the numbers of arbitrary arrests and threats of arrest of residents of these territories.

We also registered persecution, by UPP agents, of residents who are former convicts, both from the adult or juvenile penitentiary systems– which also contributes to the heightened surveillance context that characterizes this type of militarized occupation. Reports of police approaches, or the so-called stop-and-frisks, during which residents' cell phones have been seized by UPP agents, have become increasingly frequent. During these episodes, agents search through the contacts list and text messages from the resident's mobiles, and, without any motives, give rise to unreasonable inquiries, physical aggression and more persecution towards the dwellers.

Repression of those residents who – individually or collectively –have reported human rights violations perpetrated by UPP agents goes back to the beginning of the implementation of these units. Groups working with community media, as well as social movements from slums with consolidated performance in the human rights field suffer repression and intimidation; physical and verbal aggression against the women living in

¹ For the preparation of this document, the Global Justice Team had the collaboration of Priscilla Vazquez Days, Marianna Port Dapieve, Aurora Meirelles Laureano, Cecilia Alkmim and Maria Luisa of Savoy B. Albuquerque - Researchers from the Center for Human Rights of the Department of Human Rights PUC-Rio.

slums who routinely denounce human rights violations in those territories also deserve attention. We would like to emphasize, however, that the ultimate expression of violence against women in these territories occurred in August, 2014: the case of a gang rape of three women committed by agents from the UPP unit at *favela* do Jacarezinho².

We would also like to draw attention to some significant changes that have been taking place since June, 2013 in this environment of control and oppression: when demonstrations swept over the country, the repression of protests from favela dwellers was intensified – and it was no different in the slums with Pacifying Police Units. We observed that the militarized repression of protests organized by the residents of areas with UPPs is marked by the combination of the use of lethal weapons and weapons that are said to be non-lethal or less lethal.

It's important to emphasize that such repressive actions have been marked by the use of police units that, at first, are not part of the original militarized units that occupied the territories in which UPPs were installed. The Special Police Operations Battalion, the Shock Troop, the Action Battalion with Dogs or local battalions – or Rio de Janeiro civil police units, like the Coordination of Special Resources (CORE), have been put into action during these situations. The possibilities of intervention by different units of the PMERJ or by units of the Civil Police in UPP-occupied territories can be allocated in a group of uncertainties concerning the governability regiments produced from the implementation of this project by the Public Security Secretariat.

Some *favela* residents report situations in which children have been affected by the pepper spray used by police; the spray intoxicated some of the children, causing allergic reactions that resulted in some of them being hospitalized. The use of weapons considered "non-lethal" is also a characteristic of the territories occupied by military forces, with actions producing casualties, like the death of Mateus Oliveira Casé, aged 17. His death was caused by the electroshock weapon from an agent at the Mangueiras³ UPP unit. During a demonstration organized by residents, after learning about Mateus' death, police used point 40 caliber pistols – a gun of private use – and fired against the population. This action was recorded on video by a television news cameraman. The

² The three police officers indicted for the crime had their detention revoked in December 2014. See: <http://g1.globo.com/rio-de-janeiro/noticia/2014/12/justica-do-rio-revoga-prisao-de-pms-acusados-de-estupro-no-jacarezinho.html>.

³ The cases of executions of *favela* residents in UPP-occupied areas will be soon be addressed.

action was also marked by the use of stun grenades and pepper spray, as well as physical aggression.

It's noteworthy that, based on the principles of International Law, the use of police force must always be proportional to the action of the agent they are combating and can't, under any circumstances, be abusive. That is, the State can't act without calculating its action, it can't violate International Law⁴. However, what has happened in Rio de Janeiro is strictly against such principles, since there is no compatibility between the protests and the way they were being repressed. Thus, the population at UPP-controlled slums is permanently forbidden from making their voice heard, because the tactics used by the Military Police is to intensify its response to the demonstrations in order to repress future protests.

The case of Mateus' execution was one of the six cases selected by Justiça Global to be part of the first report on executions of residents of UPP-occupied favelas we sent to the UN's Rapporteur on Extrajudicial, Summary or Arbitrary Executions in 2013. The document also reported an execution that figures as the first "resistance" killing (killings by on-duty police, also referred to as "act of resistance") perpetrated by an UPP officer: on the early hours of June 12, 2011, André de Lima Cardoso Ferreira was approached by police officers from the Pavão-Pavãozinho/Cantagalo UPP unit in an alley at the Pavão-Pavãozinho *favela*, where he lived, while he was going to buy a snack. According to reports from residents, the officers were not in uniform and appeared to be intoxicated. André was immobilized by police, who threw him on the ground and kicked him, while verbally assaulting him. After the beating, the officers released André, waited for him to take a few steps, shot him on his back and then ran. André was taken to hospital by residents, but did not survive.

André was 19, and worked as a store operator in a Carrefour supermarket at the North Shopping mall and his girlfriend was eight months pregnant. Those officers involved reported the crime at a police station describing it as a shootout and thus, André's death was registered as the first "resistance" killing perpetrated by UPP officers. After the beginning of the investigation, the shootout version did not prevail and two Military Police officers were indicted by the Public Prosecutor's Office for voluntary manslaughter. The indictment was accepted in November 2011, but the

⁴ MAZZUOLI, Valério de Oliveira. *Curso de Direito Internacional Público*. 7 ed. São Paulo: Revista dos Tribunais, 2013.

lawsuit is still at the stage of instruction and adjudication hearings. After André's execution, in 2011, Justiça Global has received reports of more than 50 cases of UPP-occupied favela residents who were killed during raids spearheaded by agents from UPPs and other Military Police units in these territories.

Cases of contempt of authority are also common in the UPP-occupied territories. On 17 July 2012, Maicon Sabino de Souza, 19, was attacked by UPP officers and held for the crime of contempt: he was walking his pit bull dog in the favela streets⁵, but the dog was not using muzzles. On 14 December 2012, Mariana Albanese, a journalist from Vidigal favela, was assaulted by a UPP police officer, while filming the demolition of the only multi-purpose sports court in the favela. The court was demolished to make room for the construction of a new UPP base. Mariana was taken to the police station on charges of committing contempt and personal injury⁶. The agent, in turn, was removed from office and the respective Police Command apologized to the Neighborhood Association of Vila do Vidigal, which filed for an injunction to halt the construction. Such episodes illustrate a recurring situation in occupied favelas: the relationship between police officers and residents is markedly hierarchical, in despite of the initial proposal of having community policing.

The Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights has already concluded that national laws establishing contempt crimes are contrary to Article 13 of the ACHR. The IACHR stated that such laws are not compatible with the Convention because they are a means to silence unpopular ideas and opinions, thereby repressing the debate that is critical to the effective functioning of democratic institutions (Source: IACHR, Report on the compatibility between insult laws and the American Convention on Human Rights, OEA/Ser.L/V/II/88, Doc. 9 rev., February 17, 1995, 197-212). The criminal classification of contempt hurts one of the pillars of a democratic society: freedom of speech (Article 13.2 of the ACHR). The Inter-American Commission on Human Rights has complied with the Commission's interpretation, and the first rulings on the subject occurred in 2004, in detriment of Costa Rica and Paraguay (The cases of *Herrera Ulloa vs. Costa Rica* and *Ricardo Canese vs. Paraguay*).

⁵ *O Dia* newspaper, July 13, 2012 issue and video. Found at: <http://odia.ig.com.br/portal/rio/pms-s%C3%A3o-filmados-agredindo-jovem-na-upp-da-mangueira-1.462315>.

⁶ *O Dia* newspaper, December 13, 2012 issue. Found at: <http://odia.ig.com.br/portal/rio/vidigal-resiste-e-impede-upp-de-destruir-quadra-de-esportes-1.525864>

As for other Brazilian states, the following pacifying police systems have already been implemented: Community-Based Security (*Base Comunitária de Segurança*, or BCS in Portuguese), in the State of Bahia; “Peace Territories” (*Territórios de Paz*, in Portuguese), in the State of Rio Grande do Sul; "Community Security Units (*Unidades de Segurança Comunitária*, or USC in Portuguese)", in the State of Maranhão and “Safe Paraná Unit” (*Unidade Paraná Seguro*, in Portuguese), in the state of Paraná. It is important to highlight that the UN Pocket Book on Human Rights Standards and Practice for the Police from the UN High Commissioner for Human Rights⁷ is a part, as an essential element of the police action in a democratic state, of the actions taken on behalf of society, in the form of community policing, that should act as an ally of the population. In view of the above mentioned, the implementation of the UPP programme in other Brazilian states cannot thrive, since it presents serious human rights violations perpetrated by the law enforcement officials working in Pacifying Units.

Comments on recommendations No. 119.101 and 119.61

[119.101 - Combat human trafficking, “death squads”, violence and related sexual exploitation (Holy See) / 119.61. Take stronger action, at the federal government level, to counter “death squads” (Republic of Korea)]

Several PMERJ actions are made possible by the participation of the Military Police Shock Troop and the Special Police Operations Battalion. Many of these actions resulted in the deaths of residents, like the episode that occurred in 2013 in the Complexo da Maré, when 11 (eleven) deaths were registered. The militarization of slums has further naturalized the presence of "squads", since the idea that public security in the state of Rio de Janeiro would only be achieved by "regaining control over territories" formerly controlled by drug dealers has been widely spread. In this sense, "death squads", whose training is focused on invading slums and confronting the traffickers, are essential to ensure the effectiveness of government projects in the field of public security. Over the past two years, there has been no tackling, by the federal

⁷*Human Rights Standards and Practice for the Police - Expanded Pocket Book on Human Rights for the Police*, pp. 59.<http://www.ohchr.org/Documents/Publications/training5Add3en.pdf>

government, of the "death squads". According to data released in 2013 by the project "Urban Health – Homicides in the surroundings of favelas in Rio" (Fiocruz/Uerj), squads occupied, at the time, about 45% of Rio de Janeiro's favelas⁸. The entry into force of Regulatory Ordinance No.3461 of the Ministry of Defense in December 2013 showed an extension of territory control by the federal government, which authorized, on the eve of the World Cup, the occupation of the Complexo da Maré in April 2014 by the Armed Forces. This militarized occupation, which was requested by the state government, endures to this day. It's worth emphasizing that the UN Pocket Book on Human Rights Standards and Practice for the Police, from the UN High Commissioner for Human Rights⁹ mentions, as an ethical and legal conduct, the opposition to and the tackling of acts of corruption by the police.

Comments on recommendation No. 119.116

[119.116 - Further develop the legislation that would allow women to exercise their rights to privacy and confidentiality during police investigations and guarantee their right to presumption of innocence, due process and legal defense (Estonia)]

Over the past two years, there has been no record, on the part of Brazil, of any concrete action to implement this recommendation. Dwellers of slums there are the frequent target of civil and military police incursions or of UPP-occupied slums report that the police approach to them is always based on the presumption of guilt. With regard to female search, there is a small number of female police officers, so the searches are conducted by male police officers, which is prohibited. Female residents complain that those searches are often violent and degrading, since male police officers do not respect them and there are official records of women who have been raped by officers of the local UPP unit. There are also unrecorded cases reported to human rights organizations in unofficial complaints (due to fear of retaliation by the police and other complications related to rape complaints). It is a common practice to cover up crimes

⁸ Saúde Urbana – Homicídios no Entorno de favelas no Rio. Available in PDF format at the Fiocruz website:

http://www.icict.fiocruz.br/sites/www.icict.fiocruz.br/files/Saude%20Urbana_Homicidios%20no%20entorno%20de%20favelas%20no%20Rio_2013.pdf

⁹ *Human Rights Standards and Practice for the Police - Expanded Pocket Book on Human Rights for the Police*, pp. 02. Available in PDF at: <http://www.ohchr.org/Documents/Publications/training5Add3en.pdf>

committed by police officers in order to protect the corporation's reputation before the society. Although Brazil has signed the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the country does not comply with the provisions of its paragraph 4. During a police investigation, rights are not respected, particularly women's rights; there is no presumption of innocence.

Comments on recommendations No. 119.112, 119.123 e 119.65

[119.120. - Ensure that all killings by law enforcement personnel are properly registered and thoroughly, independently investigated (Slovakia); 119.123. Effectively fight against arbitrary and on-duty police killings, in particular by creating a strong framework for impartial investigation (Germany); 119.65. Revise the human rights training programmes for the security forces, emphasizing the use of force according to the criteria of necessity and proportionality and putting an end to extra-judicial executions (Spain); 119.122. Ensure that all members of the police and prison officers that commit human rights violations and abuses, such as torture and ill-treatment, are held accountable (Czech Republic)]

Updates and continuities in the public security policies implemented in Brazil are influenced by the institutional racism that is intrinsic to the "war on drugs" mentality. The genocide of black people as a State policy is the most concrete expression of this situation— and the registering of police killings as “resistance” killings, in particular, is still used as one of the main mechanisms of the governmental management of deaths in *favelas* and low-income suburbs. Resistance followed by death is briefly characterized as the application of an exclusion of illegality, i.e., a mechanism that allows a conduct to be no longer considered outside the norm, before the proper procedural stage. It is falsely assumed that the law enforcement official was acting in self-defense. Thus, we perceive the use of “resistance” killings as a way for the State to cover up serious human rights violations, which has materialized in the execution of residents of *favelas* and low-income suburbs. It is the height of a racist and selective policy that has characterized public security since its beginning.

The approximate number of 50 people killed due to police action in areas with Pacifying Police Units; the 16 casualties made over a two-week long invasion in

Complexo da Maré by Rio's police, and the massacres, which are still frequent, show us that, changing the name of the mechanism or of procedural standards – as the Ordinance issued by the Secretariat for Human Rights of the Presidency of the Republic, in December 2013 – does not guarantee changes to the model of public security that is currently in force, one that authorizes killings by the State. There is an urgent need for changing the war mentality that guides the State's actions.

According to official data, the “resistance killing” mechanism was used to justify more than 10,000 deaths in the state of Rio de Janeiro alone, over 11 years. After a few years with a drop in the number of recorded “resistance killings”, the year of 2014 seems to show that it remains as an endemic problem. The first three months of 2014 alone presented a huge increase in the number of “acts of resistance”: it went from 95 in 2013 to 153 in 2014, according to data from the Public Security Institute (ISP).

Given the widespread nature of the use of the “resistance killing” classification, there has been a series of initiatives aimed at restricting its practice, or at least, regulating its use; however, none of these initiatives compels the Public Security State Departments or has proven effective in modifying the situation of police lethality or the various practices that characterize “resistance killings”.

On 21 December 2012, a set of modifications entered into force, by means of the Resolution No. 08 of the Secretariat for Human Rights of the Presidency of the Republic. These modifications addressed police action and the use of the “resistance killing” classification. The Resolution provides for the abolition of generic classifications as "resistance followed by death" and "resistance killings" from police reports and investigations, and proposes the reclassification of such killings under the designation “bodily injury by police intervention” or “murder by police intervention”.

São Paulo acceded to the proposal through Public Security Department's Resolution No. 05, of January 8, 2013, which obliges police officers, in situations with shooting victims, to immediately contact emergency response teams, known as SAMU. Rio de Janeiro, in turn, had already issued an initiative prior to the one created by the federal government. In Decree No. 553, of July 7, 2011, the Chief of Civil Police, Martha Rocha, stipulated the isolation of the crime scene and the notifying of forensic specialists; hearing of victims, witnesses or law enforcement officials involved; requisition of forensics investigation whenever it is necessary to secure conviction; taking of corresponding criminal action, if any changes in the crime scene are noted;

seizure of weapons involved in the crime; possibility to request the replacement of the support team to preserve the scene, if necessary; justifying the non observance of any of the listed procedures; dispatch of the law enforcement official in charge to the hospital in which the "antagonist" is located, and, if in doubt, ask for the help of technical police. The incident can only be classified now as a "resistance killing" if the evidence, which must be attached to the records, indicates that it is unarguably the case established by the article 292 of the Criminal Procedure Code. A copy of the records shall be forwarded to the Police Internal Affairs Unit. However, when we look at the current numbers and scenario regarding summary executions, they show the ineffectiveness of these adopted instruments in practice.

Despite the State's affirmation that this is a background problem that is in the process of being solved, one can perceive the legitimization of the use of this type of record as a way to oppress the groups that are most affected by the militarized presence of the State, as well as the constant updating of mechanisms of exclusion—like the Regulatory Ordinance No. 3461/2013 issued by the Ministry of Defense. The Ordinance allows the Army to be deployed to "guarantee law and order" (this ordinance was put into action by Governor Sergio Cabral in order to occupy the Favela da Maré Complex). Changing the name of the mechanism to "murder by police intervention", as it happened in Rio de Janeiro and São Paulo, is not enough to solve the problem. The procedure for filing "acts of resistance" began with an ordinance issued in 1969, the height of the civil-military dictatorship. It was aimed to legitimize the murder of opposers to the dictatorship, without this being considered illegal. Such practice was kept during the transition between regimes, and went on being used as justification for executions in poor areas; however, it didn't imply a rupture in the norm for the agents who committed such crimes.

The mechanism, however, points out the problems that transcend police action and ostensive policing. Demilitarization, so as to interrupt the war mentality that guides the public security policies, must also be reflected on Criminal Law. "Resistance killings" clearly show the fact that the genocide of poor black people in Brazil is welcomed by the Judiciary and the bodies responsible for investigating crimes, such as civil police and the Public Prosecutor's Office. In this sense, the case of Claudia Silva Ferreira – in which the altering of the original police record, first classified under the "resistance killing" label, only occurred after extensive disclosure of the brutal scene of

her body being dragged by a police car for 350 meters – shows that the fake rescue attempts are not a problem that can be overcome by renaming the incident to “murder by police intervention”. In investigative terms, the Civil police and the Public Prosecutor’s Office legitimize this execution mentality, by failing to take investigative measures; by only collecting testimonies from police officers and, in most cases, with the Public Prosecutor’s Office dismissing the police investigation.

The victims are the ones who are investigated during a police inquiry and the ones who are tried during all stages of a judicial process (and often, so are their families and the entire population of the slum where they lived), instead of the police system, that has no type of external control or administrative penalty, relegating to the slums and black population the vulnerability of seeing their tormentors become commanders. Cases such as the execution of Matemático¹⁰, in which the judge ordered the investigation to be closed– even after full disclosure of the images of the execution carried out by the Civil Police’s helicopter –claiming that Matemático’s execution was something the agents “should and could do”, extending the allegation of self-defense to a possible existence of a future confrontation – shows us that the problem of genocide in slums and low-income suburbs is not neglected by the Government, but rather accepted and endorsed by its various spheres.

The submission for approval of Bill 4471/2012 is an example of how the issue has been treated by the federal government. After being presented for consideration of the Public Security and Combat to Organized Crime Committee and Constitution and Justice and Citizenship Committees in September, 2012, the Bill 4471/2012 would alter the Code of Criminal Procedure (Articles 161, 162, 164, 165, 169 and 292)¹¹; it would

¹⁰For information on this case, see the *Relatório da Comissão de Defesa dos Direitos Humanos e Cidadania da Alerj*, available at <<http://ddh.org.br/relatorio-anual-da-cddh-da-alerj/>>.

¹¹ Art. 161. Sole paragraph. Anyone who is a stranger to the staff of experts and assistants is forbidden to observe forensic examination. Art. 162 § 1 In cases of violent death, an internal examination, photographic documentation and collection of remains found during the autopsy shall be required. § 2. Without prejudice to the photographic documentation and collection of evidences, the expert may, on reasonable grounds, dispense with internal examination when external injuries allow to determine the cause of death. § 3. The internal examination shall always be performed in cases of violent death occurred in actions with involvement of law enforcement agents. § 4. In the event of § 3 of this Article, the forensic report shall be prepared within ten days and forwarded immediately to the police authority, the corresponding correctional authority, the Public Prosecutor’s Office and the victim's family, without prejudice, whenever it is necessary, to subsequent referral for additional tests. § 5 Anyone who is a stranger to the staff of experts and assistants is forbidden to observe forensic examination, unless indicated by representatives of the victim. § 6. If the forensic report is not attached to the records within the period determined in § 4 of this Article, the police authority shall claim it and notify the Public prosecutor. Art. 164. The corpses shall always be photographed in the position in which they were found, as well as all external injuries and traces left at the scene. Art. 165. In order to represent the lesions found

regulate the investigation of injury/death cases due to the use of State forces, providing for the banning of terms such as "resistance killing" and "resistance followed by death", by using the terms "personal injury due to police intervention" and "death resulting from police intervention". The bill also provides for the creation of measures that preserve the crime scene, so that there are better chances of investigating the circumstances of the crime.

Since December, 2012 and throughout 2013, countless demonstrations, coordinated by human rights entities, organizations and social movements, took over the streets¹² in support of Bill 4471/2012. After a series of disputes related to changes in the wording of the Bill, it was requested in April 2014, for four days, for the Bill to enter the order of business in a deliberative session of the House of Representatives, but "lack of quorum" and "closure of session" were some of the reasons presented for not

on the corpse, experts shall attach photographic evidence, diagrams or drawings to the forensic report, duly initialed. Art. 169. For the examination of the location where the offense has occurred, the corresponding authority shall immediately arrange for the preservation of the scene until the arrival of experts, which should supply their reports with photographs, drawings or illustrative schemes. § 2. In cases of violent death resulting from actions with the involvement of law enforcement agents, the forensic report shall be delivered to the requesting authority within ten days, without prejudice, whenever it is necessary, to the subsequent referral for additional tests. Art. 292. If there is, even by third parties, resistance to the prison in the act, or to the execution of a court order, the executor and the people assisting him can moderately use the means necessary to defend themselves or to overcome resistance. § 1. If, as a result of the use of force, there is an offense to the physical integrity or to the life of the person who is resisting, the competent police authority shall immediately initiate investigation of this incident, without prejudice to the arrest of the person in the act. § 2. As of the implementation of the police investigation referred to in the preceding paragraph, immediate communication to the Public Prosecutor's Office and the Public Defender's Office shall be made, without prejudice to posterior referral of a copy of the investigation records to the corresponding correctional agency and, if it exists, the Ombudsman's Office, or a similar institution. § 3. With due regards to the provisions of Art. 6, all objects connected to the event mentioned in § 1, such as weapons, ballistic material and vehicles, shall be immediately displayed to the police authority. § 4. Regardless of the removal of persons and things, the police authority responsible for investigating the events that resulted in death shall order the forensic examination of the scene.

¹² One of the first public declarations in support of the Bill was the "Public statement for the swift adoption of the Bill 4471/2012", signed by the following institutions: Ação dos Cristãos Para Abolição da Tortura (ACAT-BRASIL); Associação dos Servidores do IBGE de São Paulo (SSIBGE/SP); Associação Juízes Para a Democracia (AJD); Associação Pela Reforma Prisional (ARP); Brigadas Populares; Centro de Direitos Humanos e de Educação Popular Campo Limpo (CDHEP); Centro de Direitos Humanos Sapopemba (CDHS); Círculo Palmarino; Coordenação Nacional de Entidades Negras (CONEN); Fórum de HIP HOP – SP; Instituto de Defesa do Direito de Defesa (IDDD); Instituto de Estudos da Religião (ISER); Instituto Paulista da Juventude; Instituto Práxis de Direitos Humanos; Instituto Terra, Trabalho e Cidadania (ITTC); *Justiça Global*; Levante Popular da Juventude; Mães de Maio; Movimento Negro Unificado (MNU); Núcleo de Consciência Negra na USP; Núcleo Especializado de Cidadania e Direitos Humanos da Defensoria Pública do Estado de São Paulo; Ouvidoria-Geral da Defensoria Pública do Estado de São Paulo; Pastoral Carcerária – CNBB; Pastoral Carcerária do Estado de São Paulo – CNBB Sul I; Pastoral da Juventude da Arquidiocese de São Paulo; Pastoral da Juventude do Regional Sul 1 – CNBB; Rede Extremo Sul; Rede 2 de Outubro; Setorial Nacional de Negras e Negros da Central de Movimentos Populares do Brasil (CMP); Sindicato dos Advogados do Estado de São Paulo.). The document is available at <http://global.org.br/arquivo/nota-publica-pela-celere-aprovacao-do-projeto-de-lei-44712012/>

discussing the Bill. In the latest attempt for the Bill to enter the order of business at the special deliberative session on April 10, an agreement between the Members present at the session postponed the discussion once again.

It was only in December, 2014 that the House of Representatives turned its attention to the Bill 4471/2012, after massive pressure from social movements and organizations advocating the end of the "resistance killings" and "resistance followed by death" registers: earlier that month, a series of campaigns was released on social networks, gaining strength with the release of the National Truth Commission Report¹³. In its recommendations, the report explained the need for the extinction of the criminal classifications "resistance killings" or "resistance followed by death", and suggested it should be replaced for classifications such as "bodily injury due to police intervention" and "death resulting from police intervention"¹⁴.

We reaffirm that the situation of the murder of black people in Brazil, especially young men (aged 15 to 24), remains serious. The year of 2015 began with the release of a study commissioned by the General Secretariat of the Presidency of the Republic and the National Youth Secretariat (SNJ) and the Secretariat for the Promotion of Racial Equality (Seppir): the Index of Youth Vulnerability to Violence and Inequality (IVJ) 2014¹⁵ shows that the chances of being murdered in Brazil is 2.5 times higher for black young males (between 12 and 29 years old) than it is for white males.

The evidence of the continuity of a racist mentality characterizing the public security panorama in Brazil follows most of the information related to mortality of the young population living in favelas and low-income suburbs, like the *Young, Black, Alive*¹⁶ campaign, released in November, 2014 by the Amnesty International. It massively released the information that of 30,000 young people aged 15 to 29 that were killed in Brazil in 2012, 77% of them are black. The campaign began with an activity in Rio de Janeiro, but other events will take place in the states of São Paulo and Bahia this year. The campaign also released data related to the performance of the judiciary in this governmental mechanism that manages homicide cases in the country: less than 8% of the total number of cases registered in 2012 (56,000 people killed) were judged.

¹³ See <http://www.revistaforum.com.br/blog/2014/12/29-recomendacoes-cnv/>.

¹⁴ See <http://www.revistaforum.com.br/blog/2014/12/29-recomendacoes-cnv/>.

¹⁵ The study is available at <http://juventude.gov.br/articles/participatorio/0009/3232/indice-vulnerabilidade-juvenil.pdf>.

¹⁶ For more information on the initiative, see: <https://anistia.org.br/campanhas/jovemnegrovivo/>.

This information is directly connected to the UN's positioning, already issued in September, 2014, on the institutionalization of racism in the country. After the visit of experts to Brazil, the United Nations released a specific report on racial discrimination, also highlighting the impediments to access to justice for the black population. The myth of the Brazilian "racial democracy" is vehemently attacked in the document, which points accurately the connection between homicides that occur during police action and the State racism: "a major concern is police violence against African-Brazilian youngsters", the report ratifies.

We, therefore, confirm that the practice of summary executions by the police forces of the State goes against United Nations' principles and guidelines and also against other international treaties to which Brazil is a signatory. First, Article 3 of the Universal Declaration of Human Rights guarantees that all individuals have the right to life, liberty and security of person¹⁷. In this sense, all UN and other international organizations documents, whose contents address police violence and summary executions, are in accordance with this principle.

The UN 1989 Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions determines that governments should prohibit all types of summary executions and must also see that these are investigated and the perpetrators punished with appropriate penalties. Measures should be taken in order to prevent such executions and all legal procedures must be observed if they were to occur¹⁸. The 1979 *Code of Conduct for Law Enforcement Officials* provides that no police officer may commit or tolerate inhumane and cruel acts, nor may any law enforcement official invoke superior orders or exceptional circumstances in an attempt to justify such actions¹⁹.

The UN A/RES/40/34, along with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, guarantees assistance and access to justice for victims of abuse of power committed by law enforcement officials, besides

¹⁷Universal Declaration of Human Rights available at <http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/por.pdf>.

¹⁸UN 1989 Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions available at <<http://www1.umn.edu/humanrts/instree/i7pepi.htm>>.

¹⁹See <<http://www.un.org/disarmament/convarms/ATTPrepCom/Background%20documents/CodeofConductforLawEnfOfficials-E.pdf>>.

condemning such abuses, noting that millions of people are subject to them around the world.²⁰

The United Nations High Commissioner for Human Rights has the International Human Rights Standards for Law Enforcement, a sort of guide that establishes guidelines in the performance of law enforcement officials of member countries²¹. There are several recommendations on human rights violations practiced by the police. According to them, all law enforcement officials must respect and protect human dignity and maintain and guarantee human rights for all citizens.

The UN Special Rapporteur on extrajudicial, summary and arbitrary executions, Philip Alston, also highlights the high number of summary executions in Brazil. In its latest report, from 2010, the UN Special Rapporteur noted that summary executions represent a great percentage of homicides in the country. In his opinion, the fact that law enforcement officials are not held accountable for their offenses and continue to use the “acts of resistance” as a way to cover them up should draw the public attention. In addition, Brazil has not fully complied none of the recommendations made in the previous report, which is cause for concern.²²

The report explains the fact that many of the deaths caused by the police are classified as “resistance killings”. However, the Rapporteur found out, during his visit in 2007, that this classification, as a matter of fact, most often is used to hinder and limit the investigations. He also recommends the termination of the term “resistance killings” and argues that these deaths must be registered in the same way as others, so that they can be properly investigated.²³

Besides, despite demonstrating enthusiasm for the UPP project, the Rapporteur notes that there are concerns about them. He declares having heard many reports of police abuse and declarations that UPPs would be a way for the State to ensure the presence of the police within favelas and exert control over the territories and its residents.

²⁰See <<http://www.un.org/documents/ga/res/40/a40r034.htm>>.

²¹UN *International Human Rights Standards for Law Enforcement* available at <http://www.hrea.org/erc/Library/display_doc.php?url=http%3A%2F%2Fwww.ohchr.org%2FDocument%2FPublications%2Ftraining5Add1en.pdf&external=N>.

²²Report available at <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add4.pdf>>

²³See <<http://global.org.br/programas/onu-execucoes-sumarias-continuam-em-grande-escala-no-brasil/>>.

Amnesty International also issues recommendations for better policing in their Basic Human Rights Standards for Law Enforcement Officials. According to the organization, the law enforcement officials should only use force when strictly necessary; this force should be proportional and to the minimum extent required. Human lives must always be protected and preserved, and when deaths resulting from the use of force by police officers, they shall report the incident immediately to their superiors, so that proper investigation is carried out. In addition, AI points out that the use of firearms shall be limited to specific situations and cases of extreme necessity: such as when the life of the police officer is at risk (as in self-defense); in defense of others against imminent threat; and when arresting a dangerous suspect, who is resisting the police officer's authority or to prevent the suspect from escaping. Besides, whenever a police officer uses his firearm, he shall check the circumstances²⁴.

Amnesty International also condemns summary and extrajudicial executions perpetrated by State forces, emphasizing that no one shall be deprived of his or her life in that way. No order justifies a summary execution and police officers shall disobey an order whose fulfillment would result in violations of human rights.

The OSCE (Organization for Security and Co-operation in Europe) Guidebook on Democratic Policing states that summary, arbitrary and extrajudicial executions shall be strictly forbidden and alleged human rights violations must be reported and investigated²⁵.

The Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) recommends, in its report on Citizen Security and Human Rights, combating impunity and investigating violent acts and omissions by law enforcement agents²⁶.

Besides the systematic militarized actions, there is the fact that less than 8% of Brazil's homicide cases get to be judged²⁷. When it comes to the cases registered as "resistance killings", the most common practice is its dismissing by the Public

²⁴10 Basic Human Rights Standards, Amnesty International, available at <<http://www.dcaf.ch/Publications/International-Standard-10-Basic-Human-Rights-Standards-for-Law-Enforcement-Officials>>.

²⁵The OSCE (Organization for Security and Co-operation in Europe) *Guidebook on Democratic Policing* available at <<http://polis.osce.org/library/f/2658/2639/OSCE-AUS-SPM-2658-EN-2639>>.

²⁶ The OAS (Organization of American States) report on Citizenship and Security, available at <<http://www.oas.org/es/cidh/docs/pdfs/SEGURIDAD%20CIUDADANA%202009%20ESP.pdf>>.

²⁷ See <https://anistia.org.br/campanhas/jovemnegro vivo/>.

Prosecutor's Office²⁸ – an issue that dramatically shows not only the real effects of institutional racism, but also the role of the judiciary in the process of not holding the State accountable for the violations committed by its law enforcement agents.

Comments on the recommendation No. 119.60

[III. Brazil rejects one recommendation – 119.60. Work towards abolishing the separate system of military police by implementing more effective measures to tie State funding to compliance with measures aimed at reducing the incidence of extrajudicial executions by the police (Denmark). Brazilian explanation: Recommendation No. 60 cannot enjoy the support of Brazil, in light of the constitutional provision on the existence of civilian and military police forces. Civilian Police Forces are responsible for the tasks of judiciary police and for the investigation of criminal offenses, except military offenses. Military police forces are responsible for ostensible policing and for the preservation of public order (art. 144, paragraphs 5 and 6 of the Federal Constitution). It should be noted that Brazil has adopted measures to improve control over the actions of public safety professionals, in particular through ombudsmen and internal affairs offices, as well as through the permanent training of professionals in human rights and the encouragement of the differentiated use of force.]

Given the previous comments, we end this document confirming our position regarding the refusal of the Brazilian State to recommendation No. 119.60. There is no doubt about the importance of demilitarizing the police in one of the only countries in which this corporation is still associated to the Armed Forces and its Military Statute. In the Universal Periodic Review held in 2012 by the United Nations in Geneva, Brazil received 170 recommendations from the Human Rights Commission. Recommendation number 119.60, made by Denmark, prompted Brazil to work for the abolition of the military police as a key step in reducing the number of extrajudicial killings by the police. This was the only recommendation explicitly rejected by the Brazilian State. The

²⁸ For more information on the dismissal of “resistance killing” cases by the Public Prosecutor's Office, see Zaccone's analysis (2013), in "Unworthy of life: the legal form of the extermination policy of enemies in the city of Rio de Janeiro" (*“Indignos de vida: a forma jurídica da política de extermínio de inimigos na cidade do Rio de Janeiro”* - Doctoral Thesis defended in the Graduate Programme in Political Sciences of the Universidade Federal Fluminense).

justification was that it could not be accepted "in light of the constitutional provision on the existence of civil and military police forces". Investments are made in apparatus of police exception and repressive policies as a way of dealing with social claims and historical issues concerning public security in Rio de Janeiro - and the context of the city's preparation for the mega-events is a breeding ground for interventions and government arrangements. In June 2012, the following article was published in UOL website: "RJ government to spend part of World Cup and Olympics budget in the construction of four penitentiaries". The government has included an extensive list of preparations for the FIFA World Cup and the Olympic Games in the application for a loan to the Banco do Brasil and building four new penitentiaries, plus the headquarters of the Military Police Special Operations Company. On the relationship between penitentiaries and big events, the government of Rio de Janeiro reported that such buildings would enable civil police officers, who now are responsible for prisoners in police stations, to go out on the streets, also arguing that "a city that will host the Olympics or other major events must be prepares to serve the population in all sectors, such as health, transport, security and even prisons." On the other hand, the bank, when questioned, did not explain the relationship between the construction of four penitentiaries in Rio de Janeiro and sporting events, stating that "the funded projects are appropriate to the scope of the Pro-Cities Programme (*Programa Pró-Cidades*), which includes improvements in urban and road infrastructure and in the mobility of the Rio de Janeiro's cities."

In January, 2014, the Estado de São Paulo newspaper issued an article with the following content: "Rio Police will have 8 new 'caveirões'²⁹ for big events". The article goes on to describe the purchase of armored vehicles for the Special Police Operations Battalion (BOPE), the Shock Troop and the Coordination of Special Resources (CORE - civil police elite squad) in order to intensify security schemes for major events, such as World Youth Day, Confederations Cup, FIFA World Cup and Olympic Games. The State Secretariat of the Chief of Staff justified the purchase arguing that the current armored vehicles are "obsolete and/or antiquated, compromising both the daily actions, increasingly focused on the consolidation and pacification of excluded areas in communities previously dominated by drugs and arms trafficking, and those actions involving measures against terrorist asymmetric attacks." The State Secretariat also

²⁹ Armored vehicles, also referred to as "pacifiers", used by the police in raids in favelas.

claimed that "specificities in the region's criminality and, more recently, the responsibility of hosting major events require from the State a large investment in equipment and modernization of its police."