

THE RIGHT TO MENTAL HEALTH IN THE CONTEXT OF MILITARISED POLICING IN BRAZIL

O DIREITO À SAÚDE MENTAL NO CONTEXTO DO POLICIAMENTO MILITARIZADO NO BRASIL

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Abstract: This paper argues that routine use of militarised policing in Brazil violates the right to mental health of residents of vulnerable and marginalised communities. The right to mental health is protected in international and regional human rights treaties as well as the Brazilian Constitution. Collectively these impose three levels of obligations on Brazil – to *respect*, *protect*, and *fulfil*. This paper argues that by ignoring the substantial evidence that its actions, policies and programs on militarised policing are compromising people’s mental health, Brazil is in violation of its treaty and constitutional obligations concerning the right to mental health.

Keywords: Human rights; mental health; militarised policing; violence; marginalised communities; Brazil.

Resumo: Este artigo argumenta que o uso rotineiro do policiamento militarizado no Brasil viola o direito à saúde mental dos residentes de comunidades vulneráveis e marginalizadas. O direito à saúde mental é protegido em tratados internacionais e regionais de direitos humanos, bem como na Constituição Federal. Coletivamente, estes impõem três níveis de obrigações ao Brasil – *respeitar*, *proteger* e *cumprir*. Este artigo argumenta que, ao ignorar as evidências substanciais de que suas ações, políticas e programas de policiamento militarizado estão comprometendo a saúde mental das pessoas, o Brasil está violando tratados internacionais e suas obrigações constitucionais relativas ao direito à saúde mental.

Palavras-chave: Direitos humanos; saúde mental; policiamento militarizado; violência; comunidades marginalizadas; Brasil.

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INTRODUCTION

Johnatha was murdered on May 14, 2014. I thought I was going to die too. I kept asking myself “what will it be like now?”. I didn't see light at the end of the tunnel, I didn't see life for me. The day after my son's murder, when I was waiting for my family to pick me up to take me to the funeral, the TV was on a report. It showed a photo of Johnatha, and said: “Another young man murdered by the police in Manginhos. The family claims he was not involved in drug trafficking, but police say he died in an exchange of fire.” It was like they were killing my son again. I started to cry profusely, desperately, and said: I need to take care of my son, keep taking care of my son, I need to be his voice. No one will speak for him with such legitimacy, with such care, with such love, with such affection as I, who am his mother. So, I need to speak for Johnatha. (Oliveira apud Bento, 2021)¹

This paper argues that comprehensive health is not possible without the realisation of the right to mental health and that the routine use of militarised policing in Brazil compromises the mental health of residents of vulnerable and marginalised communities. To carry out this study, the inductive method was adopted, using bibliographic research techniques, reference analysis, legal analysis, basic categories and operational concepts.

Brazil is a postcolonial country that has been marked by social authoritarianism and its unsettling characteristics such as poverty, exclusion, inequalities and violence (Terto Neto, 2018; Dagnino, 1994 and 1998). The levels of police violence and the number of people killed by police are extremely high, as is the number of police officers killed in service, both of which are reflected in an augmented number of police violence complaints (Acebes, 2021; Statista, 2021). Between 2018 and 2022 Brazilian police killed 22,000 people.² Data published by Rede de Observatórios da Segurança show that in 2020 Brazilian police killed 2750 people. This number increased to 4025 in 2023, which shows that police killings have remained high (Gonçalves et al, 2021; Santos et al, 2024). People of African descent are the main victims of militarised

policing in Brazil since most militarised policing only takes place in racially marginalised communities, mainly those in which the majority of residents are of African descent (UN Doc. No. A/HRC/47/53 (2021), para. 26). In 2019 79% and in 2020 78.9% of deaths resulting from police intervention were of Black people (Bueno and Lima, 2021).

In February 2022 the Supreme Court ordered the state of Rio de Janeiro, to draft a plan to curb police killings and to include in it concrete measures, a timeline, and budget. This is an important first step but it is only a first step. This paper argues that it is not enough to improve police practice in the favelas e.g., by improving police training, curbing use of guns and especially the use of military weapons in residential areas, rooting out corruption. More attention needs to be paid to the broader human rights implications of excessive use of force by police, in particular its impact on the right to health, especially mental health, and to the adoption of a holistic approach to addressing crime and violence that prioritises the health and wellbeing of the communities that are being policed.

There is compelling evidence that police violence, and in particular the routine use of heavily militarised policing (i.e. methods of policing that use military tactics and equipment that are primarily designed for armed conflict) is having serious consequences on the mental health of the targeted communities such as the *favelas* in Rio de Janeiro, where use of militarised policing involving large numbers of armed personnel trained in war-fighting techniques, snipers firing from helicopters in residential neighbourhoods, heavy weaponry such as cannon guns mounted on armoured vehicles, is routine (Bueno and Lima, 2021, p. 39). Rio police kill on average 6 people a day but as observed by César Muñoz, Brazil Director at Americas Division of Human Rights Watch, ‘the numbers alone cannot convey the tragedy’ since each shooting creates tension and anxiety as families search hospitals to seek their loved one; if a death is confirmed there is pain and grief and afterwards the legacy of coping with the loss and supporting family and friends with the emotional and practical implications of a loss of a family member or friend (Muñoz, 2020).

The right to mental health is protected in international and regional human rights treaties as well as the Brazilian Constitution. Collectively these impose three levels of obligations on Brazil – to *respect*, *protect*, and *fulfil* the right to physical and mental health for everyone without discrimination (UN Doc. No. E/C.12/2000/4 (2000); G.A.

Res. 2106 (XX) (1965)). This is only possible if governments address human rights seriously because ‘attacks on universal human rights principles threaten the physical, political, social and economic environment, and actively undermine the struggle for positive mental health and well-being’ (UN Doc. No. A/HRC/44/48 (2020); Mann, Gruskin, Grodin and Annas, 1999). Therefore State Parties must ensure the satisfaction of all the human rights that are essential for enjoyment of the right to mental health such as housing, food, medical care, social services, assistance and security in order for persons to live a life with dignity (UN Doc. No. A/HRC/41/34/Add.3 (2019)). Brazil has already signed and ratified – and thus incorporated into its domestic legal system – almost all international and regional human rights treaties, and hence it should ensure they are implemented properly, for they protect human dignity and have priority over any other norms.³

THE RIGHT TO MENTAL HEALTH AND BRAZIL’S HUMAN RIGHTS OBLIGATIONS

The right to health is a collective social right, as it imposes on the State an obligation to guarantee everyone universal and equal access to public health policies, programs and services. It contains, in all its forms and at all levels, interrelated and essential elements such as *availability*, *accessibility*, *acceptability* and *quality* (UN Doc. No. E/C.12/2000/4 (2000), para. 12 (a) (b) (c) (d)). In addition the Brazilian Constitution provides for individuals to sue the State for breaches of its obligation to respect, protect and fulfil their right to physical and mental health according to international human rights treaties and constitutional and infra-constitutional law (UN Doc. No. E/C.12/2000/4 (2000), para. 12 (a) (b) (c) (d)). These are helpful as guidelines for monitoring the realisation by States Parties of the obligation to respect, protect and fulfil the human right to health, which incorporates the right to mental health (UN Doc. No. A/HRC/44/48 (2020), paras. 24 to 28).

Table 1 – Brazil’s Human Rights Obligations as to the Right to Mental Health

Global Human Rights Treaties		
Right	Content	Treaty guidance

Right not to be discriminated based on race, colour or national or ethnic origin, that is, to equality before the law.	It entails that States Parties must not discriminate while providing effective access to health public policies, programmes or actions.	International Convention on the Elimination of All Forms of Racial Discrimination (1965): article 5 (e) (iv)
Right to highest attainable standard of mental health.	It entails that State Parties must guarantee the progressive realisation of the right to comprehensive health fully.	International Covenant on Economic, Social and Cultural Rights (1966): articles 2 (1) and 12 (1)
Right not be discriminated based on gender.	It entails that States Parties must take all appropriate measures for women to enjoy the right to a comprehensive health fully.	Convention for the Elimination of All Forms of Discrimination against Women (1979): articles 10 (h), 11 (1) (f), 12 (1), and 14 (2) (b)
Right of the child to the enjoyment of the highest attainable standard of health.	It entails that State Parties must ensure that no child is deprived of his or her right of access to a comprehensive health fully	Convention on the Rights of the Child (1989): article 24 (1)
Right of persons with disabilities to the enjoyment of the highest attainable standard of health.	It entails that States Parties must take all appropriate measures in order to ensure persons with disabilities enjoy the right to a comprehensive health fully	Convention on the Rights of Persons with Disabilities (2006): article 25

Source:

OHCHR

<https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=24&Lang=EN> accessed 11 Feb 2026.

The 1988 Brazilian Constitution (articles 6, 194 and 196) supports a broad conception of the right to health that comprises curative, preventive and promotional dimensions in fundamental protection (Sarlet, 2015; Sarlet and Figueiredo, 2008; Masson, 2015; Itagyba and Moço, 2021). It strengthens the judicial enforceability of mechanisms to guarantee the minimum material conditions for a healthy life, going beyond the mere physical survival and allowing for a life with dignity (Sarlet, 2015; Sarlet and Figueiredo, 2008; Masson, 2015; Itagyba and Moço, 2021). Brazil's Supreme Court jurisprudence corroborates such interpretation. In the Judgment of *RE 580264/RS – Rio Grande do Sul (Hospital Nossa Senhora da Conceição S/A versus Estado do Rio Grande do Sul)*, Brazil's Supreme Court has reiterated that the right to comprehensive health is a fundamental right of all and of each person. For Brazil to accomplish the progressive realisation of the right to health, it must provide effective health care through actions, services, programs and public policies to everyone indiscriminately (Brazil, STF, RE 580264/RS, December 16, 2010) including setting up benchmarks and providing support for developing indicators that are concentrated on upstream protective factors such as, for instance, adequate standard of living and social inclusion (UN Doc. No. A/HRC/44/48 (2020), para. 23).

The determinants of health and poor health are not purely biological (natural), but also features of societal relations (Yamin, 2005, p. 1156; UN Doc. No. E/C.12/2000/4 (2000); Yamin, 1997). This understanding is reflected in paragraph 3 of UN CESCR General Comment No. 14 (2000) and sustained by IACtHR's ruling on *Ximenes-Lopes versus Brazil* case.⁴ Therefore Brazil has an obligation not only to provide quality health care but also to ensure that its actions are conducive to supporting the social determinants of health (UN Doc. No. A/HRC/44/48 (2020), para. 3). Whereas mental health public policies, programs, good practices and shielding laws provide protection and assistance and require Brazil to provide sufficient affordable and accessible health facilities, goods and services for mental health on the basis of non-discrimination (UN Doc. No. A/HRC/34/32 (2017), para. 9; Asanbe, Gaba, Yang, 2018). Addressing the determinants of mental health entails an emphasis on relations and social connections, thus involving interventions at the structural level and outside the health-care sector in society (UN Doc. No. A/HRC/44/48 (2020), para. 4).

The Inter-American Court of Human Rights (IACtHR)'s has affirmed that Brazil has both 'negative and positive' obligations under the American Convention on Human Rights (ACHR) concerning the right to health.⁵ In *Ximenes-Lopes versus Brazil* case⁶

the Court reiterated that ‘a State has both negative and positive obligations under the relevant provisions of the ACHR’, citing its earlier case of *Mayagna (Sumo) Awas Tingni Community versus Nicaragua* case (Golay and Cismas, 2009, p. 22). The Court went on to assert a right-duty hypothesis, in which the connected or correlated duties not only originate, but are also recognised, from the conformation of the fundamental right itself (Sarlet and Figueiredo, 2008, p. 6).

Therefore the Brazilian State has a duty to generate the necessary conditions for the actual realisation of health, including mental health and well-being (UN Doc. No. A/HRC/44/48 (2020), para. 18 and para. 20), since fulfilling the right to mental health encompasses not only equitable health care (medical treatment), including alternative therapies, but also public mental health interventions outside the health sector such as in homes, schools, workplaces, churches, and other communities, capable of protecting vulnerable populations from key risk factors for poor mental health (UN Doc. No. A/HRC/44/48 (2020), para. 18 and para. 20). Further, Brazil must not only guarantee an adequate workforce to support these efforts, but also reconsider ways of providing the necessary resources for making possible social healing, strengthening marginalised communities, and promoting a healthy society (UN Doc. No. A/HRC/44/48 (2020), para. 20).

These ‘negative’ and ‘positive’ duties regarding the right to mental health have implications for militarised policing. Potentially the ‘negative’ duty may encompass ending the employment of militarised policing in *favelas* if such operations violate the right to mental health (Brazil, STF, ADPF 635, Pending Ruling).⁷ The ‘positive’ duty would include providing *favela* residents whose mental health is compromised as a result of militarised policing with access to mental health care services in their local communities (Brazil, STF, ADPF 635, Pending Ruling).⁸

THE CONSEQUENCES OF MILITARISED POLICING FOR RESIDENTS OF MARGINALISED COMMUNITIES

Militarised policing is most common in marginalised communities in which police and army forces are used to control impoverished lives, making a complete change in the daily life of a given location (Martins, 2018, p. 45). It leads to an ‘institutional control of

the public sectors and the culture of a place as evidenced by interference, for example, in schools, health centres, church, organisations, in addition to daily searches of residents, searches in the houses, prohibitions of local culture such as music, dances, street parties etc.’ (Martins, 2018, p. 45). It results from the continuous process of militarisation of the police forces, which is evidenced in the actions and practices of the state Military Police forces in Brazil (Bordin, 2008, p. 74; Lamb, 2018, p. 935; Malone and Dammert, 2020). It is premised on a ‘logic of training policepersons for war, that is, for exclusion, which is very distant from the objectives foreseen in criminal prosecution: social integration’ (Bordin, 2008, p. 74; Lamb, 2018, p. 935; Malone and Dammert, 2020). The result is more police lethality in marginalised communities (Souza and Serra, 2020, p. 206, 2010, 2018; Freixo, Serra and Medeiros, 2012).

Militarised policing uses concepts of war, which are put into practice as “security policies”, carried out either by private groups or the State itself, and aims to have control over the territory of usually marginalised communities (Mendonça, 2018, p. 73). Violence by criminals and militias also compromises the mental health of *favela* residents, but that does not justify Brazil’s militarised policing practices, which form part of a ‘continuum defined by a combination of equipment, tactics, and culture that centers on violent conflict’ (Mummolo, 2018, p. 9182)⁹ and represent the ‘normalisation of militarism and its consequences in terms of limitations of rights and legitimisation of state violence, especially police violence’ (Souza, Serra and Battibugli, 2019, p. 1123). Instead of addressing the social and economic circumstances that generate crime in the first place they are used as an excuse to augment the policing itself, thus creating a vicious cycle (Deivanayagam, Lasoye, Smith and Selvarajah, 2021, p. 2), particularly for *favela* residents in Brazil (Magaloni, 2020, p. 3). President Lula has said that he is committed to ensuring that the role of the police in responding to gang violence in favelas is redefined because ‘Many times when when police go there [into favelas] they don’t go to solve violence. They contribute, they bring in violence, as well’ (Lopes, 2022). Although it is outside the scope of this article to address alternative policing approaches in any detail, ending the war on drugs and approaching drug use as a health rather than a crime problem would be a possibility worth considering.¹⁰ As Civil Police Officer Janaina Matos says in *It Marked my Life a Lot: The Impact of Police Violence on the Right to Mental Health in Rio* “the war on drugs today is not a fight against violence, but a fight against a portion of the population, the peripheral population, especially black people” (Mclaughlin and Wills,

2022). She talks about how Brazil's police treat the *favela* population as an enemy - and not just the criminals within it - and that in her view this is largely due to militarisation. The state uses the stereotype of the "bandit" to legitimise military operations and justify the absence of more effective social policies (Mendonca, 2018). It follows that 'an extremely complex urban environment, which includes *favelas* and has numerous streets and alleys, tunnels, vertical areas, etc., would tend to be increasingly conceived as a battlefield in a three-dimensional perspective based on the logic of volumetric militarisation' (Mendonça, 2018, p. 73). This process is designed to destroy the urbanity of the city and deny the enemy (that is the *favela* residents) their right to live in it and run it as their neighbourhood which generates a situation of "urban genocide" of the residents of marginalised communities (Mendonça, 2018; Coward, 2009; Sharp, 2016; Agamben, 2004). This logic of "war" and "enemy" against racially marginalised communities has been present since the beginning of the Republic and its continued existence exposes the contradictions of the rule of law in Brazil (Souza, Serra and Battibugli, 2019, p. 1129).

HISTORICAL UNDERPINNINGS

Militarised policing is an inheritance of the authoritarian militarism of Brazil's military dictatorship (1964-1985) (Souza, 2015, p. 215).¹¹ The promulgation of the new and democratic 1988 Brazilian Constitution made no substantive changes to the structures and operational practices of the military police.¹² The continued violence of the police from the end of the dictatorship to the present day is well documented in reports by Human Rights Watch and Amnesty International. The *Human Rights Watch World Report 1990* analyzed Brazil's public security and police conduct and exposed that the military and civil police forces have perpetrated atrocious crimes against residents of marginalised communities such as summary executions and torture, which also included the killing of children by death squads composed by off-duty policepersons (Human Rights Watch, 1990). The *Amnesty International Report 1990* also exposed the increase of activities by death squads against suspected petty criminals and juvenile offenders as, for instance, in Rio de Janeiro, where extermination groups formed by civilian vigilantes and police officers have been responsible for hundreds of killings (Amnesty International, 1990).

Ten years later the *Human Rights Watch World Report 2000* noted the same problem: high levels of police killings of civilians in marginalised communities in big cities (Human Rights Watch, 2000). The report also expressed concern that death squads established during the dictatorship were still operating in many Brazilian states. Extermination groups in which police officers regularly participate in the killings are still operational in Acre, Amazonas, Bahia, Mato Grosso do Sul, Rio de Janeiro and Rio Grande do Norte (Amnesty International, 2000).

The *Amnesty International Report 2010: The State of the World's Human Rights* and the *Human Rights Watch World Report 2010* revealed that police abuse in the form of extrajudicial execution and torture remained a chronic problem in Brazil and that militarised policing had led to excessive use of force, resulting in the killings of residents of targeted communities as well as police officers. According to Human Rights Watch “police were responsible for 561 killings in the state of Rio de Janeiro alone in the first six months of 2009 (Amnesty International, 2010; Human Rights Watch, 2010). This amounts to roughly three police killings per day, or at least one police killing for every six "regular" intentional homicides:” most of these killings do not result from legitimate use of force by police officers (Human Rights Watch, 2010). In addition the report noted that police officers commit abuses while off-duty, usually through police-linked militias in many neighbourhoods in Rio de Janeiro (Human Rights Watch, 2010).

Recent Amnesty International and Human Rights Watch reports show that there has been virtually no improvement: the same problems persist. *Human Rights Watch World Report 2022 Events of 2021* reported that militarised operations have resulted in high numbers of killings of residents of vulnerable communities (gun shots and/or extrajudicial executions) as well as in statistically significant numbers of murders of police officers (Human Rights Watch, 2022). The *Amnesty International Report 2021/22: The State of the World's Human Rights* uncovered that the so-called “war on drugs” that has structured Brazilian public security policies continues to fuel violence and police killings (mostly of young black people), in the form of ‘raids on homes, the destruction of belongings, sexual violence, psychological torture, restrictions on freedom of movement and the suspension of essential services, such as schools and health facilities’ (Amnesty International, 2022).

The *Human Rights Watch World Report 2023 Events of 2022* noted that military and civil police forces conducted militarised police operations in Rio's *favelas*, despite a decision by the Federal Supreme Court prohibiting raids during the Covid-19 pandemic. Police forces have killed more than 1,011 people in Rio de Janeiro in 2022. Impunity prevails since prosecutors have not yet prosecuted the high-ranking police officers for the deadly raids (Human Rights Watch, 2023). In addition, the *Amnesty International Report 2022/23: The State of the World's Human Rights* reported that the 'heavily armed police operations resulted in hours of intense shootings in *favelas* and marginalised neighbourhoods' and that the 'state's excessive use of force also manifested itself in raids on people's homes, destruction of belongings, psychological torture, restrictions on people's freedom of movement and the suspension of basic services such as schools and health centres' (Amnesty International, 2023, p. 100).

The *Human Rights Watch World Report 2024 Events of 2023* showed that on-duty and off-duty police killed 6,429 people nationwide in 2022, almost the same amount as the previous year, with Amapá, Bahia and Rio de Janeiro presenting the highest rates of police killings (Human Rights Watch, 2024). Further, the *Human Rights Watch World Report 2025 Events of 2024* noted that although the number of homicides reduced 5 percent from January to September, compared to the same period in 2023, police forces have killed 4,565, of which more than 80 percent are afro-descendants (Black) (Human Rights Watch, 2025). There has been significant reduction of police killings since a Supreme Court ruling in 2020 ordered Rio de Janeiro state to tackle police abuse, nevertheless. For example, from January to September, they fell 24 percent, compared to the same period in 2023 (Human Rights Watch, 2025). Despite this, the *Amnesty International Report 2023/2024: The State of the World's Human Rights: April 2024* revealed that 'police violence, unlawful killings, and arbitrary detentions persisted', mostly due to systemic racism since afro-descendants have been the ones overly affected (Amnesty International, 2024, p. 106). It is thus clear that the cycle of violence and killings of innocent (mostly Black) people living in *favelas* by police forces has continued under the rationale of the so-called "war on drugs", which still rules public security policies in the country (Amnesty International, 2023).

Arguably little has changed since the reports in 1990 of *Human Rights Watch* and *Amnesty International*. Post-dictatorship governments "invented a new war" (war on drugs) and manufactured a "new" enemy (sub-citizens), using official media to feed

prejudices and spread panics to maintain high levels of repression and legitimise the unlimited punitive power of parallel and underground criminal systems (Kolker, 2018, p. 176; Zaffaroni, 2007; Butler, 2018; Souza, 2003). There has been a shift in the profile of the victims of homicides committed by agents of the State; in the past victims were predominantly young, poor Black men, and whilst this is still true today victims include in increasing numbers Black women, elderly and children (Kolker, 2018, p. 161-163; Helmer, Rizzini, Gonçalves et al, 2022). But the presence of the police as one 'of the only "rights" guaranteed in these places has always existed, invading streets, killing black and poor youth and interfering in the daily lives of these spaces' (Martins, 2018, p. 46). These violent interruptions affect not only the material structures of the *favela*, but also the emotional and subjective self of each *favela* resident (Martins, 2018, p. 46). The result is collective public mourning becoming both a reparatory device and a significant form of resistance against state violence (Martins, 2018, p. 46).

THE IMPACT OF MILITARISED POLICING ON THE RIGHT TO MENTAL HEALTH

Militarised policing has broader human rights consequences than simply its direct effect on those who are killed; it affects the mental health of many of the other residents in marginalised communities in Brazil. In 2021, Brazil's Supreme Court conducted a public hearing on the reduction of police lethality in Rio de Janeiro. As explained by Justice Edson Fachin, it sought to outline objective measures to change a culture of violence that stems from a state of affairs completely contrary to the Brazilian Constitution (AMMP, 2021). It has also helped amplify the voices of some of the victims:

When the caveirão [police helicopter] comes flying low, it looks like it will bring down the roof of my house. Here there are small houses, most of them shacks, and there is no structure to support the helicopter's propeller. I know that you do not live [...] in a slum, and I believe that you have never been through this terror, but I say with all my heart: it is not easy to wake up at 5am and have several hooded men at your door. This is when your door is not broken down (STF, 2021).¹³

Eliene Vieira - Mothers of Manguinhos Movement

Today, Mr. Justice, it is a very difficult day: 18 years of the Borel slaughter. And today, when I woke up, the first thing I remembered was when Thiago, my son, was born. I remembered that when he was born, I hugged him without clothes, full of blood, but with a warm body, and on April 16, 2003 I hugged my son, without clothes, but with a body riddled with rifle bullets of the Military Police of Rio de Janeiro (STF, 2021).¹⁴

Dalva Correa - Network of Communities and Movements against Violence

The documentary film *It Marked my Life a Lot: The Impact of Police Violence on the Right to Mental Health in Rio* shows testimonies of mothers who have had their children killed by militarised police operations in Manguinhos *favela*, Rio de Janeiro (Mclaughlin and wills, 2022). It reveals that mothers who hear of children in a neighbouring *favela* being killed are anxious for their own children and also that children who see reports on television of deaths in a neighbouring *favela* have become very frightened. It also reveals that mothers whose children have been killed work to support other mothers, and so when they hear of a mother grieving because their child has been killed they feel committed to offer support, which is exhausting and may also trigger re-traumatisation - it brings up the pain of their own loss. Ana Paula Oliveira, who founded *Mothers of Manguinhos* after her son Johnatha was killed, reports that every year they have to add more names to the memorial plaques and banners memorialising children killed by police. She said that the siblings of children killed often lose 'the best of their mother' as she struggles with grief and the fight for justice; the mother of thirteen-year-old Christian who was killed 'playing ball in that field' died of 'sadness' (Mclaughlin and wills, 2022). Cris dos Prazeres a human rights defender in Morro dos Pazeres reports that when an operation starts, teachers 'throw the children to the floor' and weeks after the children still hear 'shots in their heads' (Mclaughlin and wills, 2022).

The stories told by community residents reflect the fact that exposure to shootings and bloody bodies affects the whole community. Psychologists report that this has resulted in an increase in deaths from suicide, excessive alcohol or drugs consumption, cancer, and other curable diseases (Kolker, 2018, p. 161-163). Along with the high number of random murders resulting from police actions, comes high levels of psychological distress (Kolker, 2018, p. 161-163). Tanya Kolker a

psychoanalyst at Brazil's *National Observatory on Mental Health, Justice and Human Rights*, reports that in Rio's *favelas* police violence has resulted in 'levels of psychological distress with almost epidemic characteristics' (Kolker, 2018, p. 161). Valcler Rangel, from *Fiocruz Dept of Health and Violence Studies* which is headquartered in Manginhos, reports that because of the scale of policing operations in Rio's *favelas*, 'children who go to school, people who go to medical care, who go to work, stop doing these things and this has a whole consequence for mental health' (McLaughlin and Wills, 2022). In addition, police suicides are well above the population rates and post-traumatic-stress-disorder is chronic among Rio's police (Campos, 2021).

The issue is not whether police violence compromises mental health, but whether the Brazilian State has an obligation under international human rights law to consider and take action to mitigate these effects (De Vylder et al, 2020; Smith, 2018). A human rights based approach to addressing the impact of police violence on mental health entails more than the right to treatment; it entails guaranteeing the right of victims to be treated as subjects of rights and to occupy the public space in order to demand justice and reparation and a guarantee of non-repetition (De Vylder et al, 2020; Smith, 2018).

CONCLUSION

Despite Brazil's Supreme Court's ruling in 2020 banning most police operations in *favelas* in Rio de Janeiro during the COVID-19 pandemic, on 6 May 2021, a militarised operation conducted by civil police in Jacarezinho *favela* resulted in at least twenty-five persons killed (Barreira and Brasil, 2021). The *UN Officer of the High Commissioner for Human Rights* has called for an independent, thorough and impartial investigation (OHCHR, 2021). It is the most lethal operation in the history of police violence in Rio de Janeiro; but it is only one of many.¹⁵ About 182 people were killed in at least 40 separate police operations in Rio de Janeiro alone between May 2021 and May 2022 (Garcia, 2022). These killings are part of a pattern going back decades. In Complexo do Alemão *favela* Brazilian police killed fourteen persons in a militarised policing operation and killed thirteen persons in another operation in 1995. In 2003, fifteen persons killed in a militarised police operation in Senador Camará

favela. In 2006, there were thirteen persons killed in a militarised police operation in Vidigal *favela*. In Complexo do Alemão *favela* nineteen persons were killed by police in one operation in 2007 and twelve persons killed in another operation 2020. On 22 November 2021, as an act of revenge for the killing of a policeman, militarised police forces killed nine persons in an operation in Complexo do Salgueiro *favela* (Amnesty International, 2000). Overall between 2015 and 2023 killings by Brazilian police almost doubled from 3330 to 6393 and more than 20% of them took place in Rio (Statista, 2024).¹⁶

Human rights violations derived from militarised policing are part of the daily reality of *favelas* in Rio de Janeiro, with profound negative effects on the mental health of their residents. Brazil's underprivileged individuals or groups who reside in *favelas* have been impeded from achieving a state of well-being or balance that allows for the employment of their own abilities, free from stress or mental illnesses, due to the harm and damage caused by civil and military police forces' use of militarised policing in their neighbourhoods (Brazil, STF, ADPF 635, Pending Ruling). They have as a consequence been habitually unable to work productively and contribute to their own communities, which causes great suffering and affects all aspects of their lives (Cruz, Silva, Jakaite et al, 2021; Fleitlich and Goodman, 2001; Vernaglia et al, 2021).¹⁷

The situation of persistent human rights violations derived from militarised policing in marginalised communities in Rio de Janeiro demonstrates that Brazil has neither ensured 'policies, laws and practices that do not hinder the promotion of mental health or well-being, particularly for those in the most disadvantaged situations', nor facilitated, provided and promoted the necessary settings for the realisation of mental health and well-being in disadvantageous communities such as Rio's *favelas* (UN Doc. No. A/HRC/44/48 (2020), para. 18).

Brazil must consider key principles in realising its tripartite obligation to respect, protect and fulfil the right to mental health such as dignity and autonomy, social inclusion, participation, equality and non-discrimination, diversity of care (acceptable and quality responses), and underlying social and psychosocial determinants of mental health (UN Doc. No. A/HRC/44/48 (2020), paras. 58-67). In the context of militarised policing, *to respect* and *to protect* the right to mental health can be translated to ensuring (military and civil) police operations follow international standards on the use of force and, considering the characteristics of military

intervention, in refraining from employing militarised policing in *favelas* in the country.¹⁸ In this regard, it should be borne in mind that the rules on use of force under international human rights law prohibit killing except where it is absolutely necessary to protect life and therefore reduce the impact of violence on marginalised communities, reducing fear and anxiety and allowing the possibility of building trust in the police.¹⁹ From this perspective, Brazil's Supreme Court's ruling in the ADPF 635 is particularly relevant, for the Court restricted police operations in *favelas* in Rio de Janeiro during the COVID-19 pandemic and discussed police lethality during a public hearing conducted on 20 April 2021 by Justice Edson Fachin (STF, 2021). The public hearing emphasised that Brazil must ensure police forces not only refrain from applying militarised policing, but also that they adopt the international standards for the use of force in all police operations, particularly in vulnerable and disadvantaged communities. In this regard, it is important to emphasise the protective role expected of police and the obligation to treat all communities equally without discrimination, for in Brazil it is primarily poor marginalised communities that are subjected to militarised policing. The police has thus the obligation to consider the broader human rights impacts on the *favela* communities before conducting policing operations that use heavy weaponry and military tactics.

Correspondingly, considering all human rights are universal, indivisible, interdependent and interrelated, to *fulfil* the right to mental health in the context of militarised policing means undertaking positive steps, legislative, administrative and judicial, to guarantee *favela* residents enjoy all human rights, including the right to housing, food, work, social security, healthy environment, and education. As there is therefore a robust correlation between social determinants and the full enjoyment of the human right to mental health in the context of militarised policing, it involves addressing the social determinants of health that prevent *favela* residents from enjoying their human rights entirely.

Another important aspect is that once the human right to mental health has been violated as a result of militarised policing, Brazil must take all necessary actions to ensure *reparatory measures* for the victims, stop the violations from ever happening again (*non-repetition measures*), and bring to justice those responsible for the violations (*accountability*) (UN Doc. No. E/C.12/2000/4 (2000), paras. 59-62). The right to adequate remedy for the violation of the human right to mental health arises from the violation of the right itself. It follows that effective judicial or other appropriate

remedies must be accessible to any individual or group victim of violation of their right to (physical and mental) health at both domestic and global levels. If any violation to the right to mental health was found, an effective remedy would have a number of dimensions, including cessation of current infringements, and introduction of new laws, policies and procedures in order to prevent their resumptions, among others.

In this aspect, Brazilian *favela* residents and any other victims of militarised policing are thus entitled to appropriate reparation in the forms of restitution, compensation, satisfaction or guarantees of non-repetition (UN Doc. No. E/C.12/2000/4 (2000), paras. 59-62). As a consequence, all stakeholders – national ombudsmen, human rights commissions, prosecution offices, legal aid offices, consumer forums, patients’ rights associations and others – must act to address the issue of violations of the right to health perpetrated by police forces, particularly regarding the right to mental health of people living in marginalised communities in the country.

¹ Interview with Ana Paula Oliveira, women human rights defender and founder of the Movement Mothers of Manguinhos (Mães de Manguinhos) available in B. Bento, “Eu preciso seguir cuidando do meu filho. Eu preciso ser a voz dele”, *Revista Cult* (Oct. 2, 2021). Available at <https://revistacult.uol.com.br/home/eu-preciso-seguir-cuidando-do-meu-filho-eu-preciso-ser-voz-dele/>.

² Human Rights Watch <<https://www.hrw.org/news/2022/03/02/brazils-supreme-court-orders-plan-reform-rio-de-janeiro-police>> accessed 10 Feb 2026.

³ UN Treaty Bodies Data Base <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=24&Lang=EN> accessed 20 February 2025. See also A. A. C. Trindade, *Tratado de Direito Internacional dos Direitos Humanos, Volume 1* (Porto Alegre: Sergio Antonio Fabris Editor, 1997), p. 40; P. H. G. Portela, *Direito Internacional Público e Privado: incluindo noções de direitos humanos e de direito comunitário* (Salvador: JusPODIVM, 2016), pp. 981-982; Ana Cristina Paulo Pereira and Eraldo Silva Júnior, Domestic Law and International Law in Brazil [2016] *Panor. Braz. law* - Year 4 - Numbers 5 and 6, pp. 197-222. DOI: <http://dx.doi.org/10.17768/pbl.a4.n5-6.p197>; Ulisses Terto Neto, Making the Human Rights Talk Matter: Are the Brazilian State’s Practices Really Following its Rhetoric Towards the Protection of Human Rights Defenders in the Country? [2016] *Quaestio Iuris*, vol. 09, n.º. 04. pp. 2263 -2311. DOI: 10.12957/rqi.2016.26142; G. F. Mendes and P. G. G. Branco, *Curso de Direito Constitucional* (São Paulo: Saraiva, 2018); A. de Moraes, *Direito Constitucional* (São Paulo: Atlas, 2016); N. Masson, *Manual de Direito Constitucional* (Salvador: Editora JusPODIVM, 2015).

⁴ *Ximenes Lopes versus Brazil* (Inter-American Court of Human Rights/IACtHR, OAS, July 4, 2006).

⁵ Terminology regarding Brazil’s international human rights obligations vary depending on the treaty body. The UN treaty bodies usually make use of the term “tripartite obligations” referring to the obligation to respect (essentially negative), protect (essentially positive), and fulfil (positive). The Inter-American treaty bodies, on the other hand, usually make use of the terms “negative and/or positive” referring to a country’s human rights obligations. All in all, it is basically just a different way of expressing that irrespective of the terminology used states must refrain from doing something (obligation to respect or negative obligation), act to prevent third parties from violating the rights of individuals (obligation to protect or positive obligation), and take all necessary steps, whether administrative, legislative, judicial, educational in order to ensure an environment conducive to the

- realisation of human rights (obligation to fulfil or positive obligation). I thank one of the blind reviewers for highlighting this difference in terminology.
- ⁶ *Ximenes Lopes versus Brazil* (Inter-American Court of Human Rights/IACtHR, OAS, July 4, 2006), paras. 103 to 105.
 - ⁷ See also *Yakye Axa Indigenous Community of the Enxet-Lengua People v. Paraguay* (Inter-American Court of Human Rights/IACtHR, OAS, June 17, 2005).
 - ⁸ See also *Caesar v. Trinidad and Tobago* (Inter-American Court of Human Rights/IACtHR, OAS, March 11, 2005).
 - ⁹ There is great concern in the Inter-American Commission on Human Rights for the growing militarisation of security police forces in Latin America, as shown in Press Releases n° 271/18, 209/18, 103/19 and 187/20. Available at https://www.oas.org/en/iachr/media_center/press_releases.asp.
 - ¹⁰ Conectas 'Descriminaliza STF: why it is necessary to decriminalise possession of drugs for personal use' 7/10/2019. Available at <https://www.conectas.org/en/noticias/descriminaliza-stf-why-it-is-necessary-to-decriminalise-possession-of-drugs-for-personal-use/>
 - ¹¹ See also T. Battibugli, *Democracia e segurança pública em São Paulo (1946-1964)* (Tese Doutorado em Ciência Política – Universidade de São Paulo, 2007); J. Zaverucha, *FHC, Forças Armadas e polícia: entre o autoritarismo e a democracia*, 1999-2002 (Rio de Janeiro: Record, 2005); Tania Kolker, 'Atenção psicossocial a afetados pela violência de Estado – subsídios e contribuições para a construção de uma política pública', in Olívia Margado França, *Clínica Política: a experiência do Centro de Estudos em Reparação Psíquica "lá em Acari"* (Rio de Janeiro: Equipe Clínico Política Instituto de Estudos da Religião-ISER, 2018), pp. 157-159. See also T. R. de O, *Pires Colorindo memórias e redefinindo olhares: Ditadura Militar e Racismo no Rio de Janeiro* (Rio de Janeiro: CEV-Rio, 2015); H. P. Bicudo, *Meu depoimento sobre o Esquadrão da Morte* (São Paulo: Martins Fontes, 1976); S Verani, *Assassinatos em nome da Lei* (Rio de Janeiro: Aldebarã, 1996).
 - ¹² Brazilian Constitution. Available at http://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/brazil_federal_constitution.pdf.
 - ¹³ See also Justiça Global, "Audiência histórica no STF pauta redução da letalidade policial no Rio de Janeiro", *Justiça Global* (April 19, 2021). Available at <http://emm.to/s/?19277.90.1292335.0.1.13420.9.433263.0.10.0.0.213596.0.0.80ecf>.
 - ¹⁴ See also Justiça Global, "Audiência histórica no STF pauta redução da letalidade policial no Rio de Janeiro", *Justiça Global* (April 19, 2021). Available at <http://emm.to/s/?19277.90.1292335.0.1.13420.9.433263.0.10.0.0.213596.0.0.80ecf>.
 - ¹⁵ The Guardian, "At least 25 killed in Rio de Janeiro's deadliest favela raid – video", *The Guardian* (May 7, 2021). Available at <https://www.theguardian.com/world/video/2021/may/07/at-least-25-killed-in-rio-de-janeiros-deadliest-favela-raid-video>.
 - ¹⁶ Statista <<https://www.statista.com/statistics/1181640/number-deaths-police-intervention-brazil/> and <https://www.statista.com/topics/7861/police-violence-in-brazil/#topicOverview>> accessed 29 May 2025. The real number of persons killed by militarised policing may be considerably higher since not all killings have been acknowledged by civil and police forces in Rio de Janeiro. See also GENI, <http://geni.uff.br>, and Fogo Cruzado, https://www.institutoupdate.org.br/project/fogo-cruzado-pt/?gclid=Cj0KCQjwytOEBhD5ARIsANnRjViTntW84qhWdS4Jc48Ly07XHfiXBD1ggw-4QR9agR8JsSGu7GYCfRcaAv4KEALw_wcB.
 - ¹⁷ See also Barron, I., Freitas, F. & Bosch, C.A. Pilot Randomized Control Trial: Efficacy of a Group-Based Psychosocial Program for Youth with PTSD in the Brazilian Favelas. *Journ Child Adol Trauma* 14, 335–345 (2021). <https://doi.org/10.1007/s40653-020-00328-8>; Cruz, M.S., Sousa Silva, E., Krenzinger, M. et al. Study protocol of personal characteristics and socio-cultural factors associated with mental health and quality of life of residents living in violent territories. *BMC Psychiatry* 20, 96 (2020). <https://doi.org/10.1186/s12888-020-02487-2>; K. Athié, C. Dowrick, A. L. do A. M. Cruz, et al, (2017). Anxious and depressed women's experiences of emotional suffering and help seeking in a Rio de Janeiro favela, *Cência & Saúde Coletiva*, 22(1):75-86; Atuesta, L. H., & Soares, Y. (2018). Urban upgrading in Rio de Janeiro: Evidence from the Favela-Bairro programme. *Urban Studies*, 55(1), 53–70. <https://doi.org/10.1177/0042098016669290>; Nathaniel Katz, "The impact of geospatial socioeconomic inequalities: Exploring health inequalities in Rio de Janeiro", *Global Encounters: New Visions Journal* | Spring 2022, V. 2, pp. 31-40.
 - ¹⁸ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Havana, Cuba, August 24 to September 7, 1990). Available at <https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>. See also OHCHR, Centre for Human Rights, International Human Rights Standards for Law Enforcement: A

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- ¹⁹ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Official 1990, available at https://www.geneva-academy.ch/joomlatools-files/docman-files/in-brief6_WEB.pdf

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