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**Call for inputs for the preparation of the report of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council resolution 43/1 on the “Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers.”**

We draw your attention to the fact that in 2019 and 2020 Rio de Janeiro police routinely conducted highly militarised operations in favela communities (also known as territories)<sup>1</sup> and killed on average more than five people a day, 70% of whom were people of African descent.<sup>2</sup> In addition to violations of the right to life of residents of the targeted communities, these operations have also caused ongoing violations to their right to the highest attainable standard of mental health. The lives and mental health of police officers, many of whom are of African descent, are also affected.<sup>3</sup>

Our statement will address the testimonies that favela residents shared with us during the filming, in October to December 2019, of the documentary film *Right Now I Want to Scream* (2020, 62 mins).<sup>4</sup> We will also address testimonies of Haitians of African descent who shared with us their testimonies of excessive use of force by Brazilian commanded troops in law enforcement operations in Haiti, in the documentary film *It Stays With You* (2018, 52 mins).<sup>5</sup> The films were funded by the Arts and Humanities Research Council, UK.

Both films were produced using participatory practices, a methodology that attempts to share the authorship of a research project with those participating in it, so that they retain control over the process and outputs of their contribution. Participatory film practices operate on at least two levels: firstly, they encourage trust between film-makers and the ‘subjects’ of the film, by providing a degree of co-ownership or shared authority;<sup>6</sup> secondly, they minimize the risk of re-traumatization by sharing authorship of the survivor’s story—a key consequence of trauma can be the fracturing of one’s sense of self, or self-narrative.<sup>7</sup>

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<sup>1</sup> Favela, from the favela tree, describes ‘horizontally structured solidary communities which hard-working people have spent decades investing in and building.’ <https://www.rioonwatch.org/?p=2920>; Catalytic Communities *Why we should call them favelas* [https://catcomm.org/call-them-favelas/#:~:text=Referring%20to%20favelas%20as%20squatter,that%20exist%20outside%20the%20law](https://catcomm.org/call-them-favelas/#:~:text=Referring%20to%20favelas%20as%20squatter,that%20exist%20outside%20the%20law;);

<sup>2</sup> Human Rights Watch, 3/06/2020 <https://www.hrw.org/news/2020/06/03/brazil-suffers-its-own-scourge-police-brutality>; A. Callamard, Sp. Rapporteur on Extrajudicial, Summary or Arbitrary Executions [http://www.global.org.br/wpcontent/uploads/2018/07/Informe\\_Execu%C3%A7%C3%A3oMarcosVinicius\\_21062018.pdf](http://www.global.org.br/wpcontent/uploads/2018/07/Informe_Execu%C3%A7%C3%A3oMarcosVinicius_21062018.pdf)

<sup>3</sup> The Police Victims Commission of the Military Police of the State of Rio de Janeiro reported that, in 2019, 1320 of Rio’s police were on sick leave, due to psychiatric disorders, 3-4 absences a day: Interview with Leonardo Bueno, Social Cooperation Advisory Board, Fiocruz, November 2019.

<sup>4</sup> The trailer and information available at [available at https://itstayswithyou.com](https://itstayswithyou.com). The full film is available on request from s.wills@ulster.ac.uk

<sup>5</sup> Full film available at <https://itstayswithyou.com>

<sup>6</sup> Frisch, M. 1990. *A Shared Authority: Essays on the Craft and Meaning of oral History*, New York: SUNY Press.

<sup>7</sup> Papadopolous, R. 1998. *Transcultural Care: A Guide for Health Care Professionals*. Salisbury: Quay Books, page 472

## Police Operations in Rio de Janeiro: violations of the right to life



**Mothers of Manguinhos, with a banner commemorating children killed in Manguinhos, from *Right Now I Want to Scream* (2020)**

Militarised policing operations in Rio de Janeiro routinely last several days and employ high levels of force. During filming in 2019 the research team had to turn back three times because of Whatsapp message from our interviewees informing us that an operation was ongoing, and that it was not safe to meet – on one of these occasions someone was killed.

A 2020 report by the Department of Studies on Violence and Health of the Oswaldo Cruz Foundation (Fiocruz) notes that in Brazil:

132 years ago there was an end to official slavery in the country, but black bodies continue to be the targets of violence. The territories of the city where the majority of the population is black - the country's peripheries and slums - are marked by an extremely violent public security policy... The favela spaces, intensely stereotyped and criminalized, are, in large part, marked by a routine of violent police action and repression ... favelas are the target of the most repressive security policies, routinely developed with violence and based on the use of ostentatious weapons. Such actions represent intolerance and authoritarianism exacerbated in Brazilian society, which subjectively reify the favela as a scapegoat for all contemporary social ills and all its residents as “bandits”. This fact can be illustrated by the strong social reactions when armed violence occurs in upscale neighbourhoods in the city and by the naturalization of this same violence in the poorest territories.<sup>8</sup>

Interviewed in 2019, Janaina Matos, founding member of a group of Brazilian police officers campaigning against militarization, told us that in Brazil, ‘it has become normal’ for police ‘to enter a territory and treat the population as if it were a war enemy...Brazil’s security policy is

<sup>8</sup> F. Mendes Lages Ribeiro, M. Matos Silva, F. Serpeloni *Notes on Armed Violence and Mental Health in Rio de Janeiro / RJ / Brazil* (Department of Studies on Violence and Health Jorge Careli / National School of Public Health Sérgio Arouca / Fundação Oswaldo Cruz)

not aiming to guarantee security for everyone, but just for an elite while oppressing the other larger number of the population, especially the black people.<sup>9</sup>

This high death toll has been widely condemned by human rights authorities as a violation of favela residents' right to life and discriminatory since militarised policing only takes place in poor neighbourhoods, most of which have a majority population of people of African descent.<sup>10</sup> Valcler Rangel from Fiocruz observed that Brazil's 'security forces should act in the territories in such a way that there is no discrimination between the richest part of the city and the poorest part of the city. Today there is a brutal difference in treatment.'<sup>11</sup> In a May 2020 report, Human Rights Watch condemned the fact that 'in the first four months of 2020, Rio police, by their own count, killed 606 people' and 'that more than three quarters of the close to 9000 people killed by Rio police in the last decade were black'.<sup>12</sup> The report explained that 'the police routinely excuse themselves in killings saying they opened fire in self-defence. Sometimes it is true as they face dangerous gangs. But many times, it is not.'<sup>13</sup> The report goes on to point out that:

The same rules for the use of lethal force apply in Providência or Salgueiro as in Copacabana and other wealthy Rio de Janeiro neighborhoods, but you wouldn't know it. Human Rights Watch research over more than a decade shows that in poor neighborhoods, police open fire recklessly...That they only behave so abusively in poor neighborhoods may explain the lack of uproar over the killings in a society as deeply unequal as Brazil's.<sup>14</sup>

### **Police Operations in Rio de Janeiro: violations the right to the highest attainable standard of mental health**

Research by Fiocruz on the mental health effects of police operations in Rio's favelas reveals deep psychological trauma affecting the whole community:

In addition to deaths and morbidities to physical health, violence often produces invisible marks on people which become expressed in mental disorders and suffering and represent violations of the integral right to health, threatening individuals, families and communities... Among the manifestations of mental suffering and or aggravations we can register: enormous feeling of vulnerability and insecurity, anguish, apprehension, fear, nervousness/tension, stress, discouragement, constant state of attention, despair, adrenaline discharges, emotional instability, insomnia, disorders anxiety, panic episodes, depression, lethargy and paralysis, general malaise, medication use / abuse, worsening of health conditions, headaches and stomach, tachycardia, onset or uncontrolled hypertension and diabetes, crying crises , sensitivity and nervousness to sounds reminiscent of shots, bruises on the skin in times of high stress, Post-Traumatic Stress Disorder, feelings of helplessness, emotional exhaustion and exhaustion, excessive tiredness, feeling of inferiority and low self-esteem and feelings of being "Cornered" and "arrested". Another point to be highlighted is the criminalization of black and peripheral

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<sup>9</sup> Interview with Wills and McLaughlin, Brazilian Bar Association, Rio de Janeiro, November 2019  
Edited version included in *Right Now I Want to Scream*.

<sup>10</sup> A. Callamard, (n 2)

<sup>11</sup> Interview with Wills and McLaughlin, Manguinhos Community Centre, Rio de Janeiro, 10/12/2019.  
Edited version included in *Right Now I Want to Scream*

<sup>12</sup> C. Munos, 'Brazil suffers its own scourge of police brutality' Human Rights Watch 3 June 2020  
<https://www.hrw.org/news/2020/06/03/brazil-suffers-its-own-scourge-police-brutality>

<sup>13</sup> Ibid

<sup>14</sup> Ibid



youth...[which] affects young people's self-esteem, leading them to a feeling of non-belonging and devaluation.<sup>15</sup>

Valcler Rangel, chief of staff at Fiocruz, interviewed in 2019 for *Right Now I Want to Scream*, said that because of the frequency and scale of militarised policing operations in Rio de Janeiro's favelas 'children who go to school, people who go to medical care, people who leave for work, people who go out for fun, stop doing this type of activity and that has a consequence for the whole of life, and for mental health.' A community leader, Cris dos Pazeres, described how, 'when there is an operation, we throw everyone on the floor and wait for it to pass... These children will live for days in trauma, with sleep disturbance, hearing shots that are not there.' A teacher, Luciana Gomes, told us 'a police operation starts and the children stay locked up, having no right to play.' Mothers of children killed in the Alemão, Manguinhos, Maré, and Salgueiro favelas told us of their struggles to memorialise their children and support each other. Ana Paula Oliviera, who founded Mothers of Manguinhos after her son Johnatha was killed, told us that after 13-year old Cristian was shot by police 'while playing ball here in that field', his mother, Janaina, 'ended up dying like many other mothers, who get sick and die of sadness and depression.' Bruna da Silva said her 13-year old son, Marcus, was in uniform walking to school in the Maré, when he was fired upon from a helicopter; afterwards another boy, Henrique, offered to go home with him saying, 'calm down, calm down – I'll stay with you, until your mother gets back from work.' On the way there they were shot at again. Before dying, Marcus said to his mother, 'Didn't they see I was in school uniform?'<sup>16</sup>

We posit that the collective impact on communities of harms to mental health from militarised policing is greater than the impacts of each separate mental health harm. Each new death may reawaken trauma in the families of people killed in earlier operations. Each time a helicopter strafes the neighbourhood or children have to hide under school-desks from police fire, it not only traumatises the individuals immediately affected, it may also add another layer of trauma to community life.



**Ballet de Manguinhos, from *Right Now I Want to Scream* (2020)**

<sup>15</sup> *Notes on Armed Violence and Mental Health in Rio de Janeiro / RJ / Brazil* (n 8)

<sup>16</sup> All Interviews mentioned in this paragraph were with Wills and McLaughlin, November and December 2019. Edited versions are included in *Right Now I Want to Scream*.

Brazil is party to the Covenant on Economic, Social and Cultural Rights (ICESCR) and to the OAS Protocol of San Salvador, both of which require states to respect the right of everyone to a high level of mental health. Under Article 4 of the International Covenant on Civil and Political Rights (ICESCR) the State may subject the right to mental health 'only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society'<sup>17</sup>- a standard that is difficult to meet in Rio de Janeiro where, in 2019 and 2020, police killed more than five people a day, most of them of African descent.<sup>18</sup>

In his 2017 report on Mental Health and Human Rights, the former High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, said that the right to the highest attainable standard of mental health is a 'fundamental right indispensable for the exercise of other human rights' and 'an inclusive right encompassing both timely and appropriate health care and the underlying determinants of health.'<sup>19</sup> In his 2019 report, Dainius Puras, UN Special Rapporteur on the Right to Health from 2014-2020, said that, 'The realization of the right to mental health requires States to respect, protect, and fulfil the social and underlying determinants that promote mental health'. He advised that poor mental health is 'closely associated' with 'the psychosocial impact of structural factors that consistently put some groups in a vulnerable situation' adding that '[t]his grossly neglected human rights issue requires urgent action.'<sup>20</sup>

### **Haiti as 'a successful laboratory' for Training in Excessive Use of Force**

Haiti ended slavery in 1804 following a successful slave rebellion. Between 2004 and 2007 the Brazilian commanded UN Stabilisation Mission in Haiti (MINUSTAH), used excessive force against poor communities, with mainly black residents, in order to restore control and curb gang crime following the February 2004 coup against Jean Bertrand Aristide. Ex-MINUSTAH personnel have been influential in setting Brazilian security policy for a number of years; but this increased significantly with the election in 2019 of President Jair Bolsonaro, himself a former soldier. Five of Bolsonaro's cabinet ministers, four of his strategic secretariats, and the special advisor to the president of the court, served with MINUSTAH in Haiti. During his 2018 election campaign, Bolsonaro claimed that in Haiti 'the rule was, you found an element with a firearm, you shoot, and then you see what happened. You solve the problem,' and says a similar approach should be used to police Brazil's favelas.<sup>21</sup>

Early in Bolsonaro's presidency the appointment of so many ex-MINUSTAH personnel to his government triggered discussions in the media as to whether this signalled a more aggressive militaristic approach to dealing with the crime in the favelas. Antonio Ramalho, professor of international relations at the University of Brasilia, noting the sizeable presence of the 'Haitian club' in senior positions in Bolsonaro's government, commented that:

it may be in the minds of these commanders to bring a little of this experience to Brazil, or give some immunity to officers or soldiers involved in this type of operation. But the application of this kind of liberality would come up against the human rights vision. Society would react.<sup>22</sup>

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<sup>17</sup> ICESCR, Art. 4; Under the San Salvador Protocol, Art. 5, 'State Parties may establish restrictions and limitations on the enjoyment and exercise of the rights established herein by means of laws promulgated for the purpose of preserving the general welfare in a democratic society only to the extent that they are not incompatible with the purpose and reason underlying those rights.'

<sup>18</sup> Human Rights Watch (n 2); BBC, 23/01/2020 <https://www.bbc.co.uk/news/world-latin-america-51220364>

<sup>19</sup> Report of the United Nations High Commissioner for Human Rights (A/HRC/34/32), paragraph 6

<sup>20</sup> Report of the Special Rapporteur on the right to health, A/HRC/41/34 12 April 2019, paras.3, 4

<sup>21</sup> G. Stardarter, 'General behind deadly Haiti raid takes aim at Brazil's gangs,' Reuters, Nov. 29, 2018

<sup>22</sup> J. Tavares, 'Militares que atuaram no Haiti ganham destaque no governo Bolsonaro' Folha, 30th November 2019 <https://www1.folha.uol.com.br/poder/2018/11/militares-que-atuaram-no-haiti-ganham-destaque-no-governo-bolsonaro.shtml>

As predicted, the 'Haitian club' has brought its experience of combat style policing in Haiti to its law enforcement operations in Brazil and as a consequence, police killings, which were already high, have increased significantly under Bolsonaro's presidency.

Camille Chalmers, director of the Haitian Platform for an Alternative Development, interviewed in Port-au-Prince in 2017 for *It Stays With You*, told us:

Many of the Brazilian soldiers said that, when they left Haiti, they were sent to Rio or Sao Paulo. They had been training in how to repress shanty towns and favelas, like those in Rio or Sao Paulo...it is clear that the tendency is to criminalise the poor. That is to say that, because there were two or three gangs operating in Cité Soleil, they say that everybody in Cité Soleil was a gangster.<sup>23</sup>

Aderson Bussinger Carvalho, a member of Brazil's Bar Association (OAB), who travelled to Haiti in 2007, stated in an interview in 2019 'I think Haiti was a really successful laboratory, looking at it from their view, they trained the military, they were effective, they did their training and have applied it here in Brazil.'<sup>24</sup> Brazilian troops' experience in Haiti provided the opportunity for 'acquisition and/or improvement of skills and knowledge related to social control and pacification, which could be adapted and executed in any other (urban) context'.<sup>25</sup>

Brazil's current Minister for Institutional Security, General Heleno, cites his own experience as force commander of the UN Stabilization Mission in Haiti in 2005, as an argument for reducing the accountability of Brazilian troops in order to more effectively control crime in Brazil's favelas:

Our rules of engagement in Haiti were highly flexible. They gave the commander of the scene, not the commander-in-chief, the power to injure and lethally wound anyone who had a hostile action or intention. This means that a guy armed with a rifle assaulting or stealing cargo becomes a target whom I can eliminate ... And whoever shot him should be exempt from legal liability. That is the legal security that we have been fighting for so much, which has improved now that we have the possibility of being tried in the military justice system.<sup>26</sup>

There has been no armed conflict, as defined in international law, in either Brazil or Haiti in this century: but even if there had been, neither human rights law nor international humanitarian law permit the elimination of a person for stealing cargo. In an interview in 2004 on Radio Metropole, General Heleno said 'we must kill the bandits but it will have to be the bandits only, not everybody.'<sup>27</sup> Clearly this approach violates international customary law protecting the right to life and would do so even if the situation in Haiti had been one of armed conflict.

In Operation Iron Fist, on July 6 2005, Heleno's troops fired 22,700 bullets, 78 grenades and 5 mortars, over approximately seven hours in the densely populated neighbourhood of Bois Neuf, where most of the houses are made of salvaged corrugated metal and cloth.<sup>28</sup> Reports by the United States Embassy in Haiti suggest that at least thirty people were killed.<sup>29</sup> Eye witnesses and survivors say that a number of children and several pregnant women were

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<sup>23</sup> Interview, with Wills and McLaughlin, Port au Prince, April 2017; edited version in *It Stays With You*

<sup>24</sup> A. B. Carvalho, Brazilian Bar Association, Interviewed November 2019; edited version in *Right Now I Want to Scream*

<sup>25</sup> R Nasser and J.F. Finazzi, 'Haiti's Lessons' OPEU 25/05/2018, <http://www.opeu.org.br/2018/05/25/as-licoos-do-haiti/>.

<sup>26</sup> General Heleno, GloboNews, 17/02/ 2018 <https://globosatplay.globo.com/globonews/v/6512023/>; Edited version included in *Right Now I Want to Scream*

<sup>27</sup> Ben Terrall, 'We Must Kill the Bandits' Nov. 17 2004, [http://haitiaction.net/News/BT/11\\_17\\_4.html](http://haitiaction.net/News/BT/11_17_4.html)

<sup>28</sup> Report of the Special Rapporteur, Philip Alston, E/CN.4/2006/53/Add.1 (n 30), pages 324-325.

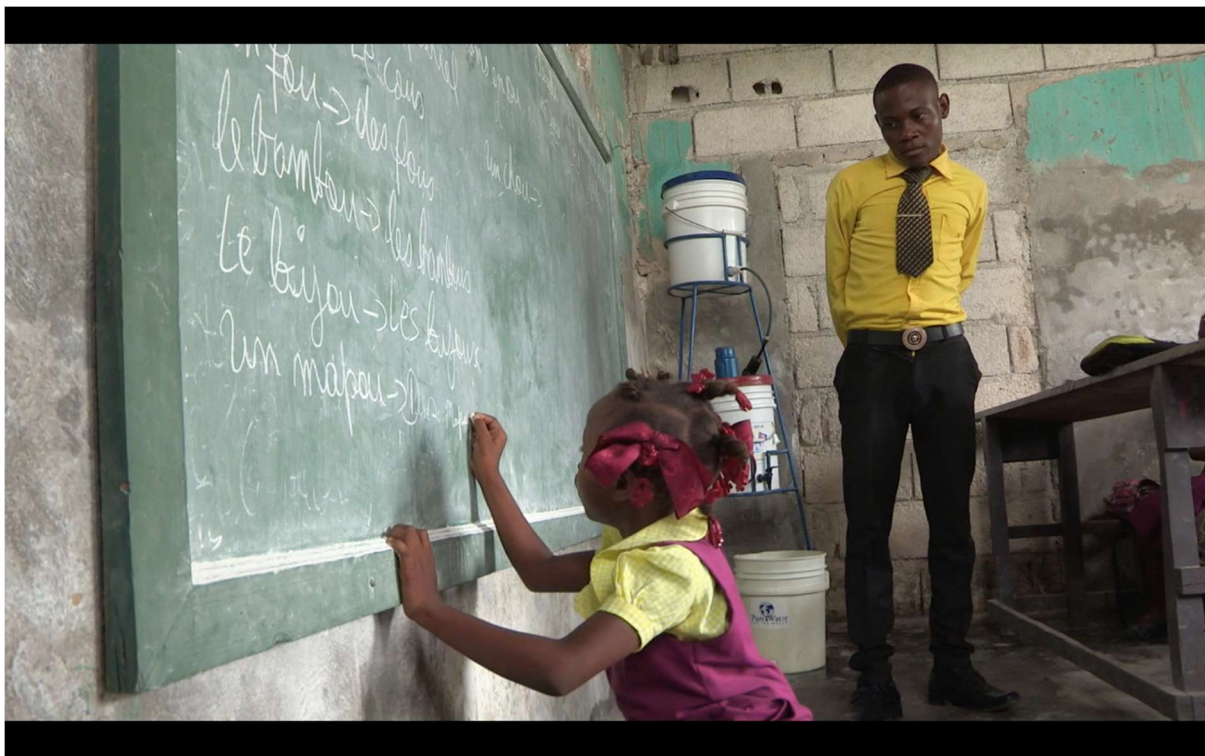
<sup>29</sup> Cable U.S. Embassy Chargé d'Affaires 01/06/2006 <http://www.ijdh.org/author/admin/page/93/>



killed in their beds by bullets coming through the roofs. The bullet holes have been repaired but are still clearly visible today. Sisters Modeline and Diorlie Dorcius were teenagers when their father was killed in his pottery workshop by a bullet so large that his guts were splattered all over the roof of the workshop, which 'we had to clean it up ... this is so extreme, it's something we can't understand'.<sup>30</sup> This type and scale of damage could only have been caused by helicopter fire or by large cannon guns mounted on armoured vehicles. General Heleno stated on Haiti's Radio Metropole, 'We carried out an operation to show that the forces of order are powerful and that we have the means to impose the law... We will carry out operations, exert pressure, kill and arrest bandits.'<sup>31</sup>

Survivors of Operations Iron Fist interviewed for the film *It Stays With You* claim that no one from the UN or from any state agency has ever visited their neighbourhood to speak to them. One of the reasons people were keen to be involved in the film was because they said that this was the first time anyone had shown any interest in what happened to them. Eveline Myrtil, whose three children were shot by fire from a UN helicopter whilst asleep in their home, said, 'After everything that happened there is no one to come and talk to you, you're worth nothing'. Sorel Eliasse, whose brother lost an eye when he was shot by a large bullet fired from a heavy gun mounted on a UN armoured vehicle and is no longer able to work, said, 'A massacre takes place but no one comes to see how many victims there are, how many people were lost, how many cases there are. You know what you know, it stays with you.'<sup>32</sup>

### Violations of the Right to Education



Primary school, Bois Neuf, Cité Soleil, from *It Stays With You* (2018)

<sup>30</sup> Interview with Wills and McLaughlin, Cite Soléil, April 2017; edited version in *It Stays With You*

<sup>31</sup> General Augusto Heleno Ribeiro Pereira, Radio Metropole 'Forces of Order Have the Means and the Will' 17 July 2005 <https://haitipolicy.org/2005/07/forces-of-order-have-the-means-and-the-will>

<sup>32</sup> Interview with Wills and McLaughlin, Cite Soléil, April 2017; edited version in *It Stays With You*

A common thread that emerges from the participants' stories is the severe economic consequence of death and injury that resonate far beyond the immediate loss to encompass long-term suppression of opportunity and, with it, prospects for individual and community recovery—most notably in the denial of education opportunities for children.

Cris dos Prazeres, told us that because of police operations in Rio de Janeiro:

The school calendar for poor children is completely fragmented all the time, whether in the school that is in the favela, out of the favela, or far from the favela. Because on the day of the shooting, in the favela that school day is over, it is a day that has to be crossed off the calendar. Often, depending on who this child is, who this professional is, they lose this week, depending on the degree of violence in the conflict. The conflict usually starts early, or it may be during the day. If it starts early, the school does not open and the child is without class, they become a hostage to this conflict in their own home, with their families. Often, when it is possible to leave, the mother goes to work because the boss doesn't want to know about it, she stays there, a hostage from her own life, without the right to come and go. She is going through all that, mentally, alone.<sup>33</sup>

In Haiti, virtually all schools are fee-paying, including those in Cité Soleil; if a parent dies or is unable to work the children cannot go to school. Interviewed in 2017, Modeline Dorcius, with her child at her elbow listening to her, spoke tearfully of the fact that if her father had not been killed, 'I have two children, I would not have had them, I would have gone to school'<sup>34</sup>. Education is a means to economic and social independence—but it is more than that. It is both a source and a means of advancing individual and community pride, identity, culture and transformation. Victor Jean said of his daughter, who was killed by a bullet coming through the roof of their home, 'she was a rock for me. She helped me. She helped me. I am an old man. ... it really hurts when you have a daughter like that for her to die in such wicked circumstances, she never did any wrong, she never stole, she never went to prison, she went to school, she had a certificate.'<sup>35</sup>

Education is a fundamental right enshrined in Article 26 of the Universal Declaration of Human Rights, Articles 13 and 14 of ICESCR, and Article 28 of the Convention on the Rights of the Child. Whilst the right to education is subject to progressive realisation and the availability of State resources it should never the less available to all without discrimination; secondary and tertiary education should be affordable; and States' education systems should be flexible in order to adapt to changing situations and needs. In its General Comment No. 3, the Committee on Economic Social and Cultural Rights affirmed that parties to the ICESCR have an obligation respect, protect and fulfil the rights protected and that this includes taking 'deliberate, concrete and targeted' steps towards the full realisation of the right to education. Moreover, even during an emergency parties cannot derogate from the minimum core obligations of ESC rights, which include the obligation 'to ensure the right of access to public educational institutions and programs on a non-discriminatory basis; to provide primary education for all, and; to adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education'. This means that state parties are required ensure that these minimum levels of the right to education are satisfied at all times.

## Conclusion

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<sup>33</sup> Interviews mentioned in this paragraph were with Wills and McLaughlin, November and December 2019. Edited versions are included in *Right Now I Want to Scream*.

<sup>34</sup> Interview with Wills and McLaughlin, Morro dos Prazeres, November 2018; edited version in *Right Now I Want to Scream*

<sup>35</sup> Interview with Wills and McLaughlin, Cite Soléil, April 2017; edited version in *It Stays With You*



Our research, as documented in the films *Right Now I Want to Scream* and *It Stays With You*, reveals serious levels of excessive use of force by Brazilian police and troops carrying out law enforcement operations in densely populated poor neighbourhoods in which most of the residents are of African descent. This has resulted in violations of the right to life, of the right to the highest attainable standard of physical and mental health, and of the right to education. Violence affects how an individual perceives the world and themselves, as well as their hopes for the future, and it has long term consequences for the individuals affected and for the collective health and well-being of the community.<sup>36</sup>

The OHCHR mandate to investigate excessive use of force in law enforcement operations against people of African descent is a major step forward and an opportunity to address both the short, medium and long term effects on individuals and communities.

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<sup>36</sup> *Notes on Armed Violence and Mental Health in Rio de Janeiro / RJ / Brazil* (n 8)