



Urgent Appeal

Setbacks in the Brazilian gun control regulation

Summary: Conectas Direitos Humanos and Instituto Sou da Paz present this urgent appeal of human rights violations regarding the scenario of armed violence and the incoherent and unconstitutional setbacks in the Brazilian gun control regulation that has been taking place in the country since January of the present year.

Submitted to the following United Nations Special Procedures:

Ms. Agnes CALLAMARD,
Special Rapporteur on extrajudicial, summary or arbitrary executions

Ms. E. Tendayi ACHIUME
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Ms. Dubravka ŠIMONOVIC,
Special Rapporteur on violence against women, its causes and consequences

Ms. Elizabeth BRODERICK,
Working Group on discrimination against women and girls

Mr. Ahmed REID,
Working Group of Experts on People of African Descent

Contact:

Conectas Direitos Humanos
Gustavo Huppés
gustavo.huppés@conectas.org

Instituto Sou da Paz
Bruno Langeani
bruno@soudapaz.org

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1. Background

During the 1990s, Brazil experienced an intense escalation in homicide rates. From 1989 to 2003, the homicide rate grew at an average of 5.4% per year¹, influenced mainly by the widespread use of firearms.

After a movement of intense mobilization of civil society, a new law was established and approved in the National Congress based on the responsible control of the circulation of firearms in the country. Law 10.826/2003² was enacted in December 2003 and dubbed the "Disarmament Statute", which has among its main measures:

- Seven minimum requirements for the purchase of a weapon: i) effective necessity; ii) no criminal records, criminal prosecutions or police inquiries; iii) legal occupation; iv) fixed address; v) technical capacity; vi) psychological aptitude and vii) at least 25 years of age (Articles 4 and 28);
- Concentration at the Federal Police of the registries, authorization to carry and purchase weapons, concessions for some profiles of buyers. Improvement of the National System of Weapons (SINARM) of the Ministry of Justice, the database that should contain information on these weapons and owners of arms registered in the country, facilitating traceability (Articles 1 and 2);
- More control over the sale of ammunitions, which can only be carried out by registered stores and in boxes with bar code identifying the producer (Article 23);
- More control over ammunition purchased by public security forces, which must have batch code marked on the cartridge, facilitating traceability (Article 23);
- A strict restriction on the authorization for civilians to carry arms. Registered and authorized possession - which means, keeping a weapon legally at home or at work - is still permitted under the above requirements, but carrying out a firearm is a more strict exception for cases such as proven threats to the life of individuals (Article 6);
- Typification of arms trafficking as a crime diferente from the trafficking of other products (articles 17 and 18) and increase of penalties for the crime of illegal possession of firearms (articles 14 and 16).

With the publication of this Law and its implementation efforts, in 2004 and 2005 there was the first drop of homicides in the country and the beginning of a clear trend reversal: 14 years later, the average growth rate is 0.85% per year³.

¹ Available at: http://www.forumseguranca.org.br/wp-content/uploads/2019/06/Atlas-da-Violencia-2019_05jun_vers%C3%A3o-coletiva.pdf

² Available at: http://www.planalto.gov.br/ccivil_03/leis/2003/L10.826compilado.htm

³ Available at: http://www.forumseguranca.org.br/wp-content/uploads/2019/06/Atlas-da-Violencia-2019_05jun_vers%C3%A3o-coletiva.pdf

2. Introduction

The motivation of this urgent appeal is a series of Decrees issued by the Brazilian government that, in our understanding, extrapolate its regulatory power, by opposing the aforementioned law and disrespecting the international commitments Brazil has undertaken, since it places its population in immediate danger of serious escalations of human rights violations.

The first decree⁴ (9.685/2019) was edited by President Jair Bolsonaro on January 15, bringing a series of changes to the possession of firearms. Among the most serious, the flexibilization of the criteria defined by the current law that a personalized justification is needed in order to prove effective necessity for a firearms possession. Actions were filed in the Federal Constitutional Court documenting this unconstitutionality and the collective damage potentials of this Decree.

While these actions were still pending trial, a new decree⁵ was issued on May 7, revoking the previous one (9.685/2019), whose content extrapolated the regulatory powers of the executive branch even further. Among the main changes against the current legislation, there was a flexibilization on the professional categories and conditions that are allowed to bear a firearm, such as inhabiting a rural area or being registered as a lawyer, facts that would presuppose a collective necessity of bearing a firearm. Those professional categories combined would represent more than 19 million people, potentially carrying firearms on the streets. Once again, lawsuits were filed to document these and other irregularities.

On May 21, a new decree⁶ was published (9.797/2019) under the justification of mitigating or correcting technical flaws of the previous decree, but maintaining its main irregularities regarding the format and non-compliance with current legislation, as well as its potential impact on human rights violations.

As Legislative Projects were also presented contesting the legality of those decrees at the Congress, on June 12, the Justice and Constitution Commission of the Senate voted for the illegality of the May 21st decree. On June 18, the Plenary of the Senate confirmed the decision and sent the project for the House of Representatives analysis.

On June 24, the President of the House of Representatives declared that they would probably confirm the illegality of the decrees⁷. In the same week, the legal actions pointing the illegalities of the decrees presented at the Constitutional Court were put into the voting agenda for the session of June 26.

On June 25, the President revoked the May decree and published four new ones (9.844-9.88477)⁸, all of them related to weapons and gun control. One of the decrees published on June 25 was revoked hours later, resulting in three decrees currently being valid. The content is very similar to the previous

⁴ Available at: http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D9685.htm

⁵ Available at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9785.htm

⁶ Available at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9797.htm

⁷ Available at: <https://brasil.estadao.com.br/noticias/geral,deputados-devem-seguir-senado-e-aprovar-derrubada-do-decreto-de-armas-de-bolsonaro-diz-maia,70002885098>

⁸ Available at: <https://exame.abril.com.br/brasil/bolsonaro-contradiz-porta-voz-e-revoga-decretos-de-armas/>

decree of May 21, but splitted: one decree regarding the changes on the right to carry arms, one decree on the right to posses and the last one on the rules regarding hunters, shooters and collectors.

This new package of decrees has an additional gravity as it was published after the vote in favour of the unconstitutionality of the previous decree by the Federal Senate and on the verge of the trial by the Constitutional Court, with great chances of defeat (which would suspend the full validity of the texts). This maneuver made some of those actions and legislative projects loose their subject, imposing a delay and rework on those analisys.

All decrees of June 25 follow the same pattern of the previous ones and were prepared without any transparency and maintaining inaccuracies. The haste and lack of care can be evidenced by the absence of signatures of the Minister of Justice and Public Security, Mr. Sergio Moro, and the Defense Minister, Mr. Fernando Azevedo Silva, who were signing the previous decrees along with the President.

After all, even with all the comings and goings, it should be noted that since January 2019, access to weapons by the population has been greatly facilitated, giving up a series of controls and extending deadlines that make it difficult to verify the person in possession of the weapon is still able to handle the firearm. Registration data for the last six months already indicate a growth of 65% in relation to the total registered in 2018.

The format of the decrees

The decrees currently in force are illegal because they exceed the Executive's competence when it comes to editing decrees, which only regulates the legislation duly approved in the National Congress.

The innovations introduced by those decrees are contrary to the provisions of Law 10.826/2003, which inaugurated a policy of responsible control of weapons and ammunition and established the concept of effective necessity as an indispensable condition for the acquisition of firearms. The law explicitly established the prohibition of possession as a rule, with room only for the possession for public security institutions (duly explained in the sections of article 6) and individually grounded exceptions arising from threats or risky professional work. The president cannot, by issuing a decree, waive purchase approval requirements that are in a law. Thus, the president could not have altered the core of the law, as he did in the published decrees.

Due to these illegalities, at least five lawsuits have already been filed in the Brazilian Constitutional Court requesting the last decree to be overturned.

The content of the decrees

Among the main problems brought by the decrees regarding the potential to intensify human rights violations are:

- Extending the validity period of the registry from 5 to 10 years, in practice this means that risk mitigation requirements are impaired. With such a long interval, this benefit loses its effectiveness.
- The decree ignores one of the legal requirements and does not mention the need to present a personalized reason/justification to the need to possess a firearm before the registry approval.
- It allows hunters, shooters and collectors to transport one firearm ready to use, allowing a veiled firearm carry authorization to those categories not related to public security.
- It allows ordinary citizens to have access to more powerful weapons than the country's polices, such as 9mm or .45 caliber guns, for example. The energy limit of the released ammunitions allowed to civilians has been increased by 4 times, allowing access to more powerful weapons, which contributes to raising the range and lethality of gunshots, especially in the hands of people without constant training. This also puts the police forces in danger because they are in a position of weapon inferiority in possible conflicts with millions of civilians.
- The illogical amount of weapons to which the decree allows access. It allows the purchase of an unlimited amount of firearms if “justified” by the civilian, without explaining any criteria.
- It establishes that members of security organs can buy unlimited amounts of ammunition. This measure ignores the need for government procurement and control of the ammunition that its servers use, ignores the legal prediction that ammunition sold to public agencies (and by consequence the ones used by its servers) must have batch marking to enable its tracking, making possible to investigate the recurring cases of diversion of ammunition by public servants.
- It allows the donation of seized ammunition and accessories, which is not authorized by Law 10.826/2003 that only authorizes the donation of seized firearms. This provision also ignores the legal determinations that public agencies use only batch-marked ammunition, as well as the international recommendations to avoid diversion and the incompatibility of the unit value of ammunition and accessories in view of their storage, security, logistics and expertise costs involved in this alleged flow of donation.
- It provides that public institutions may authorize servants to use personal weapons in service, ignoring the state's duty to provide such work material, weakening control over the use of lethal weapons by the state and making all the investigative work more difficult in the event of misuse.

3. Use of firearms and violence in Brazil

The rates of armed violence in Brazil are alarming and victimize more intensely some segments of the population. According to Ministry of Health data⁹, in 2017 there were 65,602 homicides¹⁰ in Brazil, a

⁹ Available at: http://www.forumseguranca.org.br/wp-content/uploads/2019/06/Atlas-da-Violencia-2019_05jun_vers%C3%A3o-coletiva.pdf

¹⁰ It considers the concept of homicide of the Bogota Protocol to be the death of one person caused by the intentional aggression of another(s).

rate of 31.6 deaths per hundred thousand inhabitants, historically the largest in the country. Of these, 72% were committed with firearms, a percentage well above the global average estimated at 44%¹¹.

The highest concentration of victims occurs among men, in the last 10 years they accounted for 92% of all homicide victims. In relation to the age group, the highest concentration is among young people. The homicide rate within the population between 15 and 29 is more than double the population in general: 70/100 thousand inhabitants, representing 59% of deaths in the age group between 15 and 19 years¹². Combining these two characteristics, men and young people, the homicide rate reaches 130/100 thousand inhabitants.

This loss of young lives is a particularly cruel reality as it represents a loss of life in the initial development stage of its potential, as well as have greater economic impact. The costs of violence in the country are estimated at about 5.4% of GDP¹³ in the year, including the cost of lost lives, public and private security spending, health and prison systems.

The over-representation of the black population among the victims is also evident. While they account for about 50% of the population, they account for 75% of the total number of victims reaching a rate of 43 deaths per 100,000 inhabitants and growing at a faster pace than the average general population¹⁴.

Thus, it is possible to note that the level of lethal armed violence is intense in Brazil and that this violence disproportionately affects vulnerable populations, such as young and black, and is an important additional obstacle to the full socioeconomic development of Brazil, as already recognized by Sustainable Development Goal (SDG) number 16.

The relation of this violence to the decrees that motivate this letter is evidenced by a series of scientific researches that identify that more weapons in circulation increase the lethal violence, especially in our reality of intense social inequality and culture of violent resolution of conflicts.

A study by the Institute for Applied Economic Research (IPEA)¹⁵ has found that every 1% increase in the number of weapons circulating in Brazil results in a 2% increase in homicides while at the same time having no effect on the crime rate against property. Thus, the maintenance of these decrees puts lives at risk contrary to evidence of their high potential to increase armed violence.

This relationship between the increase of arms in circulation and increase of crimes is documented by two main possibilities: misuse by gun owners and deviation to the illegal market. Both are fomented by ways of this Decree since:

¹¹ Available at: <http://www.genevadeclaration.org/measurability/global-burden-of-armed-violence/global-burden-of-armed-violence-2015.html>

¹² "Atlas of Violence 2019", Brazilian Public Security Forum and IPEA.

¹³ Available at: http://www.forumseguranca.org.br/storage/8_anuario_2014_20150309.pdf

¹⁴ "Atlas of Violence 2019", Brazilian Public Security Forum and IPEA.

¹⁵ Available at: <http://www.ipea.gov.br/portal/images/stories/PDFs/relatoriopesquisa/mapaarmas.pdf>

- It flexibilizes the requirements for gun acquisition, mainly by removing the need for individualized justification of the need, allowing people without any specific protection access to firearms, ignoring the intense interpersonal violence in the country;
- It eases the requirements for the carrying of weapons on the streets, encouraging ordinary people to try to react to crimes, which proves to increase the number of shootings and the victimization of both those who try to react and third parties (victims of lost bullets)¹⁶;
- It increases the validity period of the registry from 5 to 10 years, weakening essential controls, such as the repetition of psychological tests and proof of possession of the weapon;
- It allows access to an inordinate amount of weapons and ammunition to individuals, encouraging the practice of intentional diversion into the illegal market and the interest of organized crime in accessing these weapons through targeted thefts and robberies.

There is already extensive documentation on the intensity of the use of weapons of legal origin in the commission of crimes in Brazil. Several investigations find percentages of about 70% of weapons with Brazilian origin used in crimes and about 40% of the weapons used in crimes that were traced indicated the precedence of a registered Brazilian owner¹⁷. Similar dynamics are identified among ammunition seized, in Rio de Janeiro, it was identified that at least 42% of them are of national origin¹⁸.

These decrees will flood the country with arms and ammunition that, directly or indirectly, will feed not only our armed violence but also that of other Latin American countries, in view of the established internationalization of organized crime in South America. Thus, these decrees are a threat to the achievement of goal 16.4 of the SDGs and to the development of the entire affected region.

It is important to consider that, in addition to the existence of traditional organized crime, Brazil also suffers from the activities of militias, extermination groups and killers. These groups are often made up of active or retired police officers or military personnel who use training, access and authorization to carry arms to commit crimes or impose a territorial domain in order to extort the population in exchange for supposed security guarantees against other threats.

Among the most emblematic cases of those dynamics is the execution of Rio de Janeiro Judge, Patrícia Acioli, in August 2011. It has been proven that she was executed by military police officers opposed to her actions to confront police deviances and militias in the region. We can also mention a massacre that occurred in São Paulo in the cities of Osasco and Barueri, which left 17 dead and 7 wounded and had the demonstrated participation of at least four military policemen and a civil guard. More recently, in 2018, we had the brutal execution of councilwoman Marielle Franco and Anderson Gomes, her driver.

The violent scenario of the country also includes the excessive use of force by public security forces. In 2017, 5,159¹⁹ Brazilians were killed by public officers. Despite the recognition of the right to use lethal force in situations such as eminent lethal threat, there are several cases of documented

¹⁶ Available at: http://www.soudapaz.org/upload/pdf/tambem_morre_quem_atira.pdf

¹⁷ Available at: http://soudapaz.org/upload/pdf/de_onde_vem_armas_do_ne.pdf

¹⁸ Available at: http://www.soudapaz.org/upload/pdf/analise_das_municoes_apreendidas_no_rio_de_janeiro_isdp_2.pdf

¹⁹ Available at: http://www.forumseguranca.org.br/wp-content/uploads/2019/06/Atlas-da-Violencia-2019_05jun_vers%C3%A3o-coletiva.pdf

executions and impunity. The federal government has corroborated arguments that try to legitimize those killings before any investigation²⁰, adding a disturbing political legitimation that can multiply cases of extrajudicial executions.

All these cases demonstrate how the rules on access and possession of weapons by security forces need to be better controlled and not subject to further liberation, as done by the current decrees.

It should be noted that these decrees not only multiply the amount of weapons and ammunition available for committing crimes and deviations, but also made it unaccompanied by measures to strengthen the control of this market, such as the creation of new marking obligations or the restructuring of surveillance and investigation bodies.

In the first two cases mentioned above, one of the evidence that aided in enlightenment of crimes was marked-up ammunition found at the crime scene, an obligation inserted by the 10.826/2003 law now threatened by these decrees. In the third case, there was also public marked ammunition found at the crime scene and it was possible to identify that this unit had been diverted from the same batch of the deviant ammunition used in the São Paulo slaughter.

Reinforcing the already fragile situation of this control, let us take as a parameter also a data recognized as essential for goal 16.4 of the SDGs: the Brazilian Federal Police has access to basic information of only 5%²¹ of the total seized weapons in the country, being therefore able to trace the origin of an even smaller percentage.

Thus, another regional problem, the low clarification of crimes against life, must be highlighted. Most countries in the Latin American region do not even have a calculated national homicide elucidation rate, indicating the precariousness of this State obligation recognized by human rights instruments and SDG 16. In Brazil, recent efforts have identified that this rate is around 20%²², certainly insufficient due to the State's responsibility to clarify serious crimes, to hold authors accountable and to repair the victims' families.

4. Other affected groups

Faced with the dimension of armed violence in Brazil, it is essential to draw attention to the differential impact in other demographic groups that, although do not represent the majority of the victims, are strongly impacted.

a. Women

²⁰ As example, the recent death of six young citizens within five days at Rio da Janeiro were followed by governments' temptatives to minimize its importance. Available at: <https://g1.globo.com/rj/rio-de-janeiro/noticia/2019/08/14/rj-teve-pelo-menos-6-jovens-mortos-a-tiros-em-cinco-dias.ghtml>

²¹ Available at: <http://www.forumseguranca.org.br/wp-content/uploads/2019/03/Anuario-Brasileiro-de-Seguran%C3%A7a-P%C3%ABblica-2018.pdf>

²² Available at: http://www.soudapaz.org/upload/pdf/index_isdp_web.pdf

Armed violence against women is intense. In 2017 there were 4,936 women murdered in the country or a rate of 4 per 100 thousand inhabitants, with some states in which the rate exceeds 10 per 100 thousand²³.

Regarding the dynamics of this lethal violence, the femicide registry accounts for 25% of all homicides with female victims, but it is estimated that this percentage is higher both because this typification is relatively recent (dates from 2015 and still faces doubts at the time of registration) and because other data reinforce the intensity of gender-based violence in the country.

Among the most relevant data, there are records of the health system indicating that 64% of the aggressions against women are committed by acquaintances²⁴. In 2017, 61 thousand rapes and 221 thousand cases of domestic violence²⁵ were reported. A survey of female homicide cases between 2012 and 2017 found that homicides committed outside the home fell 3 percent during this period while homicides inside a household rose 17%²⁶. The Atlas of Violence also shows how the homicide of women inside their homes with the use of firearms grew by 26,2%, following the trend of expansion in the firearms possession by citizens (that grew 17,9%- at the same period 2014-2017).

Multiplying the amount of weapons available will aggravate this scenario reinforcing the existing dynamics of violence, facilitating the obtaining of means of threat, facilitating more impulsive and more lethal aggressions, being also necessary to considerate the fact that the demand for weapons has an intense gender bias. This Decree is a direct threat to the achievement of the SDG 5 targets and is a threat to the safety and development of all women in this country.

Data from the opinion polls on access to arms reinforce this scenario: while 65% of men oppose the flexibilization of arms, this percentage is 80% among women²⁷. It is remarkable, therefore, how much Brazilian women are being systematically ignored and excluded²⁸ from this public policy built in a particularly undemocratic way.

b. Children and youth

The impact of this decree on children and adolescents has also been little discussed, with a number of concerns mainly related to the increase in the number of accidents, suicides and intentional uses of firearms.

²³ "Atlas of Violence 2019", Brazilian Public Security Forum and IPEA.

²⁴ Available at: https://www.mapadaviolencia.org.br/pdf2015/MapaViolencia_2015_mulheres.pdf

²⁵ Available at: <http://www.forumseguranca.org.br/wp-content/uploads/2019/03/Anuario-Brasileiro-de-Seguran%C3%A7a-P%C3%ABblica-2018.pdf>

²⁶ "Atlas of Violence 2019", Brazilian Public Security Forum and IPEA.

²⁷ Available at: <https://oglobo.globo.com/brasil/maioria-dos-brasileiros-contra-flexibilizacao-das-regras-de-armas-diz-ibope-rejeicao-maior-na-periferia-23712715>

²⁸ Available at: https://brasil.elpais.com/brasil/2019/01/19/opinion/1547931975_861982.html

Regarding the accidents, we have the index of one hospitalization by accident with children involving firearms every 3 days in the country²⁹. The Decree aggravates this situation by encouraging the use of the weapon for self-defense, which presupposes its immediate availability ready for use, as well as by not making specific custody requirements for owners with children and adolescents at home.

With regard to suicides, they have already increased in a worrying way in general in the country and particularly among adolescents. According to the Ministry of Health, in 2017 there were 1,055 cases of children and adolescents suicide, indicating an increase of more than 800% in relation to 2005. It is a consensus that having a weapon at hand favors the accomplishment of impulsive suicides and greatly reduces the probability of survival.

Finally, cases of misuse by adolescents are of concern both for the aggravation of more simple infractions and for the increasing cases in which they carry out shootings. A recent survey³⁰ found that in half of Brazil's mass shootings, perpetrators accessed the guns inside their own homes.

c. *Violence in rural areas*

Another population largely silenced is the one suffering violence in rural areas. This context of armed violence, exacerbated by the delay in identifying and punishing those responsible, led to the first request for the Incident of Displacement of Competence (IDC 1), concerning the investigation and trial of those involved in the murder of missionary Dorothy Stang, who died on the morning of February 12, 2005, from gunfire, 53 kilometers from the headquarters of the municipality of Anapu, in Pará, sent by the region's *grileiros* and loggers.

The request for displacement of competence was raised on March 4, 2005, based on the omission of the Pará authorities to deal with the land conflict in the area and protect possible victims of homicide and torture. The request was denied by the Supreme Court of Justice, but it is representative of the permanence of the situation of armed violence in the countryside and the multiple tensions involving activists, farmers and the State.

There is no doubt about the contemporary concern with the killing of rural workers, as well as leaders who work for the right to land, the first months of 2019 have witnessed at least two cases of murder in the countryside:

- (i) On January 5, 2019, rural worker Eliseu Queres was murdered inside the Bauru Farm, in Colniza (MT), 1,065 kilometers from Cuiabá, in a conflict that left nine other people injured, three of them in serious condition. Colniza had already been the scene of massacre on 19 April 2017, which resulted in the torture and death of nine people³¹;

²⁹ Available at: <https://www1.folha.uol.com.br/cotidiano/2019/02/a-cada-3-dias-uma-crianca-e-internada-apos-acidente-domestico-com-arma.shtml>

³⁰ Available at: <https://www1.folha.uol.com.br/cotidiano/2019/03/em-metade-dos-ataques-contr-escolas-no-pais-armas-vieram-das-casas-dos-atiradores.shtml>

³¹ Available at: <https://g1.globo.com/mt/mato-grosso/noticia/um-ano-apos-chacina-que-deixou-9-mortos-em-colniza-mt-acusado-de-ser-o-mandante-nao-esta-presos.ghtml>

(ii) On March 21, 2019, five people arrived at the home of Dilma Ferreira Silva, a human rights defender and regional coordinator of the Movement of People Affected by Dams. Neighbors reported listening to very loud music from the place, something that was unusual for the couple. The next day, the house was found turned upside down, with the three bodies tied up, gagged and with signs of torture³².

Taking into account the tragic and persistent scenario of armed violence in the countryside - with dramatic acceleration in intensity in recent years - and the established correlation between the increase in violence resulting from increased access to firearms (see section 3), the liberalization of the carrying of weapons to people living in rural areas - with the potential to affect nine out of every hundred Brazilians - as regulated in Art. 20, § 4, II, of Decree no. 9.785, of 2019, the level of violence in the countryside, putting at risk the implementation of agricultural and land tenure policy and agrarian reform, as provided for in Art. 184 of the Federal Constitution.

d. Environmental rights defenders and indigenous peoples

Today, Brazil is one of the most dangerous countries in the world for defenders of human and environmental rights, including indigenous peoples. According to a report by Global Witness³³, 201 social and environmental rights defenders were murdered in 2017. Brazil leads the ranking, with 57 defenders killed in 2017, largely as a result of tensions in the Amazon region.

Among the cases highlighted in the report is the attack on members of the Gamela indigenous community, which took place on April 30, 2017, in a village located 220 kilometers from São Luís (MA)³⁴. At the time, five indigenous people were shot, two of whom also had their hands cut off, as well as thirteen others wounded by knife and stab wounds³⁵. The motivation for such acts of violence would be protests against the invasion of Gamela lands by farmers and loggers. Other attacks on indigenous people in Gamela lands were recorded in 2015³⁶ and 2016³⁷.

Demonstrations by the current federal government on the suspension of the process of demarcation of indigenous lands³⁸, as well as attempts to weaken FUNAI's institutional position³⁹, have been accompanied by new outbreaks of violence against indigenous peoples, including intensification of the invasion of their lands.

³² Available at: <https://www.conectas.org/noticias/apuracao-assassinato-dilma-ferreira-mab>

³³ Available at: <https://www.globalwitness.org/en/campaigns/environmental-activists/a-que-pre%C3%A7o/>

³⁴ *Ibidem*

³⁵ Available at: <https://cimi.org.br/2017/05/39498/>

³⁶ Available at: <https://www.socioambiental.org/pt-br/noticias-socioambientais/indigenas-gamela-sofrem-atentado-em-area-ocupada-no-maranhao>

³⁷ Available at: <https://racismoambiental.net.br/2016/08/26/homens-armados-invadem-retomada-em-carro-de-empresa-de-seguranca-atiram-e-ameacam-indigenas-gamela/>

³⁸ Available at: <https://www.redebrasilatual.com.br/politica/2019/01/decisao-do-governo-de-suspender-demarcacoes-ja-provoca-invasoes-em-terras-indigenas>

³⁹ Available at: <https://reporterbrasil.org.br/2019/02/sob-ataque-pos-eleicao-terras-indigenas-estao-desprotegidas-com-desmonte-da-funai/>

According to data from the Indigenous Missionary Council - CIMI, since the election of the current government, the invasions of indigenous lands have increased by 150%⁴⁰. At the end of October 2018, a health post and a school in Pankaru, Pernambuco, were attacked with incendiary bombs⁴¹. In Mato Grosso do Sul, convoys of farmers fired at the Guarani Kaiowá community⁴².

In November 2018, on a hearing during the visit to Brazil by the Inter-American Commission on Human Rights, held in the Açaizal indigenous community in Santarém (PA), the members of the international body were intimidated and threatened by soy producers⁴³. According to a note from the Brazilian Committee of Human Rights Defenders (CBDDH)⁴⁴, the producers gave "racist and violent speeches against those present and also tried to identify the license plates of the cars, vehicles and vans that took the participants of the meeting to the territory, in a clear attitude of intimidation. They only left after being questioned by the police.

Other reports of violence include the Arara Indigenous Lands, in Pará, and Arariboia, in Maranhão, invaded in January by loggers and land grabbers who have been trying to establish themselves within demarcated areas⁴⁵. According to the Instituto Socioambiental, the Uru-Eu-Wau-Wau and Karipuna peoples, both from Rondônia, have also identified new attacks by land grabbers on their territories⁴⁶. There are also reports of gunfire attacks against the Guarani Mbya from the takeover of Ponta do Arado, in Porto Alegre (RS)⁴⁷. In the largest indigenous land in the country (TI Ianomâmi), recent information indicates that 20,000 miners have invaded the area⁴⁸.

In conclusion, in light of the scenario of no demarcations of indigenous lands, catalyzed by the project to dismantle Funai and intensified by a tragic increase in cases of invasion of territories occupied by indigenous peoples throughout Brazil, the adoption of policies of uncontrolled circulation of firearms - as is the case of Decrees no. 9.845 - 9847, 2019 - will amplify the degree of armed and lethal violence against indigenous peoples, violating their fundamental rights to life and physical integrity (cf. Art. 5, caput, CF/88), and calling into question their very existence, considering the attacks on their social organization, customs, languages, beliefs and traditions, in addition to the original rights over the lands they traditionally occupy, as constitutionally ensured by Art. 231 of the Federal Constitution of 1988.

⁴⁰ Available at: <https://noticias.uol.com.br/ultimas-noticias/reuters/2019/03/05/enfoque-terras-indigenas-sofrem-com-invasoes-sob-diretriz-de-bolsonaro.htm>

⁴¹ Available at: <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2018/10/29/aldeia-indigena-em-pe-tem-escola-e-posto-de-saude-incendiados-indios-temem-novos-ataques.htm>

⁴² Boadle, *op cit.*

⁴³ Available at: <https://g1.globo.com/pa/santarem-regiao/noticia/2018/11/09/comissao-da-oea-acusa-produtores-de-soja-de-intimidacao-e-ameacas-em-santarem.ghtml>

⁴⁴ Available at: <https://racismoambiental.net.br/2018/11/08/nota-publica-da-cbddh-intimidacoes-durante-visita-da-cidh-em-santarem-pa-nao-nos-calaremos/>

⁴⁵ Available at: <https://g1.globo.com/pa/para/noticia/2019/01/03/madeireiros-invadem-terra-indigena-arara-no-sudoeste-do-pa.ghtml>

⁴⁶ Available at: <https://www.socioambiental.org/pt-br/blog/blog-do-monitoramento/centenas-de-invasores-entram-na-terra-indigena-uru-eu-wau-wau-e-preparam-derrubada-da-floresta>

⁴⁷ Available at: <https://cimi.org.br/2019/01/comunidade-guarani-mbya-da-ponta-do-arado-e-atacada-a-tiros-em-porto-alegre-rs>

⁴⁸ Available at: <https://www1.folha.uol.com.br/poder/2019/05/invasao-em-terra-indigena-chega-a-20-mil-garimpeiros-diz-lider-ianomami.shtml>

5. Conclusion

There is a series of fallacious statements in the justifications around these Decrees, such as that it would respond to a popular clamor for more access to weapons. As the Ibope survey of June 2019 shows, 61% of Brazilians are against the flexibility of ownership and 73% against the flexibility of carry authorizations⁴⁹ of firearms; another justification is that it would meet the result of a referendum held in 2005⁵⁰. This is not true, as it is known that the referendum result decided to maintain the trade of firearms under the requirements defined in law, precisely the requirements that are being changed now. Perhaps the most serious affirmation is that this measure would not be motivated by public security concerns, but only a campaign promise to be fulfilled⁵¹, indirectly recognizing its inefficiency to reduce violence and denying its evident negative impacts on national public security.

It is worth considering the incoherence in relation to human rights commitments of a public security policy that prioritizes action by one's own hands to the detriment of the security guaranteed by the State through its institutions of Security and Justice, which could be the object of many productive and coherent investments within a Democratic Rule of Law.

The Brazilian State needs to be more transparent on how these decrees will affect the increase of homicides, on the victimization of already vulnerable populations, on the actions of organized crime and militias, on the quantity of extrajudicial executions, on gender violence, on violence against children and adolescents and on violence against indigenous and rural residents.

Firearms-related violence and insecurity pose direct risks to the rights to life, security and physical integrity, and affect other civil, political, social, economic and cultural rights such as the rights to health, education, an adequate standard of living and social security and the right to participate in cultural life. States must adopt adequate laws, regulations and administrative procedures to exercise effective control over the legal possession of firearms by all persons.

The current decree violates a series of international human rights standards and recommendations from many United Nations bodies and the Inter-American Commission on Human Rights, as well as the respect for rule of law and the separation of powers that constitute the pillars of a healthy democracy. States have the obligation of undertaking due diligence in the context of civilian access to firearms. The Human Rights Committee has stated that the protection of the right to liberty and security of person as provided in article 9 of the International Covenant on Civil and Political Rights involves measures of control over civilian ownership of firearms.

Considering this brief summary of the main issues involved in the recent threat of rise in the armed violence in Brazil and its evident damages to public security and socio-economic development, we, the undersigned organizations, request the UN Special Procedures addressed in this communication to issue a public statement about the subject and to urge the Brazilian government to:

⁴⁹ Available at: <https://oglobo.globo.com/brasil/maioria-dos-brasileiros-contra-flexibilizacao-das-regras-de-armas-diz-ibope-rejeicao-maior-na-periferia-23712715>

⁵⁰ Available at: <http://www.tse.jus.br/eleicoes/plebiscitos-e-referendos/referendo-2005/referendo-2005-1>

⁵¹ Available at: <https://noticias.uol.com.br/cotidiano/ultimas-noticias/2019/05/08/moro-decreto-bolsonaro-porte-armas.htm>.

1. Comply with international human rights standards, including for the due diligence obligations of States on the human rights implications of the use of firearms and urge the government to revoke the decrees currently in force;
2. Provide information on measures being taken regarding the protection of human rights, in particular the right to life and security of person, related to the civilian acquisition, possession and use of firearms;
3. Provide information on the possible studies carried out on the issuance of the decrees and studies on how they will impact on the increase of homicides, on the victimization of already vulnerable populations, on the actions of organized crime and militias, on the quantity of extrajudicial executions, on gender violence, on violence against children and adolescents and on violence against indigenous and rural residents;
4. Engage in open and constant dialogue with civil society organizations and social movements;
5. Refrain from taking any administrative measures not in line with international human rights standards to flexibilize gun control policies in Brazil.