

**United Nations Human Rights Council**

**27th Session of the UPR Working Group**

**Geneva, 05.05.2017**

**---**

**German national statement**

**Brazil**

Mr President,

Germany commends progress made and recommends:

1. Guarantee adequate consultation and full participation of indigenous peoples in all legislative and administrative measures affecting them, protect indigenous people - including indigenous human rights defenders - from threats and attacks and protect their land rights, in particular by strengthening protection programmers, completing pending land demarcation processes and providing adequate funding and capacity to FUNAI.
2. Expand custody hearings programs to cover all pre-trial detainees by passing draft bill no. 554/2011. Provide specific training according to the Istanbul Protocol to judges and public prosecutors working in custody hearings.
3. End extrajudicial killings and associated impunity, including by passing draft bill no. 4471/2012, by abolishing the classification “resistance to arrest followed by death” and by ensuring that all deaths following police interventions are impartially investigated.

Thank you.

II. Advance Questions:

1) The Special Rapporteur on the rights of indigenous peoples noted in 2016 that there had been an “extremely worrying regression in the protection of indigenous peoples’ rights” in Brazil. Germany would like to know what steps the government of Brazil has taken since the 2012 UPR cycle to “ensure indigenous peoples adequate consultation as well as full participation in all legislative or administrative measures affecting them” (rec. 119.169) and what further steps it stills plans to take, taking into account recommendations 98 a) to 98 d) made by the Special Rapporteur in her 2016 report. Furthermore, Germany would like to know what steps the government of Brazil plans to take to implement other recommendations made by the Special Rapporteur on the rights of indigenous peoples, particularly with regards to the rights of life, violence and racial discrimination as well as land rights and capacity of government agencies.

2) The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recognized in 2016 that Brazil had made “significant progress on paper with regard to legislation, safeguards, prevention and institutional reform”. He noted, however, that implementation was lagging far behind, that torture and ill-treatment were frequent and that killings by police and by prison staff continued and were not isolated incidents. Germany would welcome information on how the government of Brazil intends to reduce the number of extrajudicial killings and how it intends to further improve and implement existing mechanisms for impartial investigations of incidents of torture, ill-treatment or police killings, taking into account the relevant recommendations made by the Special Rapporteur.

3) Germany welcomes that Brazil’s National Report acknowledges as priorities the need to guarantee inmates’ rights and to adequately translate the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela rules) into public policy. Given that its National Report also links the overcrowding of Brazilian prisons to the fact that 40% of the inmates are provisional prisoners, Germany would be grateful to learn how the government of Brazil intends to reduce its prison population and to counter the detected increase in the number of pre-trial detentions over the past decade, in particular if it intends to expand its Custody Hearings Program, which has so far been implemented only in state capitals and major cities, to the entire country and to all categories of crimes, as recommended by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his 2016 report.