



*Permanent Mission of Brazil to the United Nations Office  
and other International Organizations in Geneva*

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the joint communication AL BRA 04/2020, received on 29 June 2020, has the honor to transmit the attached observations of the Brazilian government in response to the concerns presented by the relevant Special Procedure mandate holders in the abovementioned communication.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 26<sup>th</sup> August, 2020

To the Office of the United Nations High Commissioner for Human Rights -  
Special Procedures Branch

In reference to joint communication AL BRA 4/2020, dated 29 June 2020, the Brazilian Government would like to make the following clarifications.

Initially, it is worth reminding that Brazil is a solid democracy, with fully functioning institutions, ruled by constitutional principles and guarantees based on the highest standards of the rule of law, including the right to freedom of thought, the right to freedom of expression and the right to freedom of opinion. Such rights, of course, extend to holders of the highest offices in the Republic. The opinion that any Brazilian or foreigner resident in Brazil has about a certain episode in Brazilian history is free and must be respected, including the opinions of authorities.

In this context, the Brazilian Constitution (and also several human rights treaties) guarantees the freedom to express thought or opinion - including positive ones - about the military governments in the period 1964-1985.

It should also be reminded that people who relate harm and losses to the period between 1964 and 1985 have their full right to freedom of opinion (and to the free expression of such opinion). Those people can appeal to the Judiciary, if they understand that any statement or opinion of a fellow citizen may have offended them. This is a typically democratic mechanism and, therefore, guaranteed in Brazil.

The government emphasizes that Brazil knows - and fulfills - its international obligations, which, together with the provisions of its Constitution, form the basis of Brazilian society, particularly the relationship between citizens and the government.

As for the recognition of human rights violations that occurred in the period in question, the Brazilian State, in numerous ways, has already recognized them and, further, repaired the people who saw themselves as the object of such violations. The National Truth Commission, even though incomplete and lacking in analysis of the crimes and aggressions perpetrated by the armed opposition to the regime, played a major role in the matter, as is certainly known to the signatories of the letter of allegation.

It should be added that, by means of Law No. 9,140 / 1995, the Brazilian State recognized 136 persons as dead and disappeared due to human rights violations that occurred during the 1964 civil-military regime. At the same time, this law created the Special Commission on Political Deaths and Disappearances

(CEMDP), which, among other duties, has the purpose of recognizing people who have died or disappeared due to their political activities. CEMDP is still active. In addition to the 136 persons initially recognized *ex officio*, CEMDP recognized 229 others during its 25 years of operation.

It should also be reminded that, independently of the activities of the CEMDP, the Ministry of Women, Family and Human Rights (MMFDH) is the body of the federal government responsible for coordinating actions related to the right to memory and truth and the theme "Political Deaths and Disappearances" within the scope of the federal government.

Regarding "non-repetition", the Brazilian government, mainly through the General Coordination of Missing Persons, a unit of the National Secretariat for Global Protection of this MMFDH, has provided information related to the CEMDP and the theme "Memory and Truth" whenever requested, either by public and private bodies, or by persons who can request them through the Electronic System of the Citizen Information Service (e-SIC), a mechanism that centralizes requests for information provided for in Law on Access to Information (Law nº 12.527 / 2011).

The federal government also continues with several projects in the area, such as the analysis of the exhumed bone remains of the Dom Bosco Cemetery, especially of its clandestine ditch, located in the Perus neighborhood, in São Paulo, with a view to identifying politically dead and disappeared persons.

Regarding the replacement of CEMDP members, the acts mentioned are fully in accordance with art. 5 of Law No. 9,140 / 1995, which indicates that the members of the Commission will be chosen freely by the President of the Republic:

*"Art. 5. The Special Commission will be composed of seven members, freely chosen and appointed by the President of the Republic, who will indicate, among them, who will chair it, with a casting vote."*

The Brazilian government therefore considers unreasonable the forwarded allegations and even the fact that the distinguished rapporteurs question the Head of State of Brazil for his decisions that are fully within the scope of his legal attributions.