

Mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

REFERENCE:
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28 March 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolution 36/7.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning commemorations to be held to celebrate the 1964 military coup in Brazil.

According to the information received:

On 25 March, President Bolsonaro ordered the Defence Ministry to carry out appropriate commemorations related to 31 March 1964, date of the military coup that initiated a dictatorship in Brazil that lasted until 15 March 1985. In the past, President Bolsonaro has made appreciative comments about the Brazilian military dictatorship, as well as other military dictatorships in Latin America, such as that of Augusto Pinochet in Chile and Alfredo Stroessner in Paraguay.

According to reports, hundreds of suspects of political dissent and thousands of indigenous people were killed or forcibly disappeared and tenths of thousands were arbitrarily arrested and/or tortured during the dictatorship period. It was only in 2014, that the military recognized these human rights violations committed by its agents during the years of the dictatorship. However, an Amnesty Law was established to prevent any member of the military to face criminal justice.

I would like to express deep concern about the planned commemoration of the military coup in Brazil and the impact it may have on the promotion of truth, justice, reparations and guarantees of no-recurrence concerning the serious human rights violations committed during the dictatorship, and on the rights of victims of such violations. This is of particular relevance considering that human rights violations committed during the dictatorship remain unpunished. Lack of accountability and impunity lead to the weakening of society's trust in public institutions and the rule of law; and can be an important element contributing to the recurrence of human rights violations.

I would also like to express concern that these events are not only contrary to the human rights obligations of Brazil, but can lead to a process of re-victimisation for the victims of human rights violations during this period.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures taken to ensure that human rights violations committed during the Brazilian dictatorship continue to be acknowledged and that such information is widely disseminated among the population in order to ensure that the collective memory about these violations is preserved, and its recurrence prevented.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to their human rights implications. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of my highest consideration.

Fabian Salvioli
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Principle 2 of the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity establishes the inalienable right of all persons to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led to them. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations.

Principle 3 establishes that people's knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfilment of the State's duty to preserve archives and other evidence concerning violations of human rights and humanitarian law and to facilitate knowledge of those violations. Such measures shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments.

I would like to refer to Human Rights Council Resolution 33/19 on human rights and transitional justice that notes with concern that attempts to deny or to justify such crimes may risk undermining the fight against impunity, reconciliation and efforts to prevent such crimes, (pp. 12). It further recognizes that justice processes memorialization processes and the preservation of archives and other reliable evidence concerning gross violations and abuses of human rights and serious violations of international humanitarian law (...) ensure that such crimes are never forgotten and contribute to the prevention of the recurrence of these crimes or similar violations and abuses

I would also like to refer to the obligation to investigate and punish human rights violations and to combat impunity for such crimes. In this regard, I would like to recall that, as established by the Human Rights Committee in its General Comment No. 31 (Paragraph 18) States have an obligation to investigate and punish serious human rights violations, including summary or arbitrary killings, torture and other cruel, inhuman or degrading treatment, and enforced disappearances. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties. Impunity for such violations can be an important element contributing to the recurrence of violations.