



**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 – Special Procedures Branch and has the honor to submit herewith the reply from the Federative Republic of Brazil to the **letter from the UN Special Rapporteur on freedom of religion or belief**, issued in 30 October 2020, calling for information in the context of the preparation of his thematic report on Anti-Muslim hatred/“Islamophobia” and the right to freedom of thought, conscience and religion or belief.

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 – Special Procedures Branch the assurances of its highest consideration.



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With regard to the issues raised by the Special Rapporteur on FoRB, Mr. Ahmed Shaheed, under the call for inputs dated 30 October 2020, the Brazilian government would like to present the following considerations, based on inputs received from the National Secretariat for Global Protection of the Ministry for Women, Family and Human Rights, on issue number 2, related to the manifestation of the right to freedom of religion and belief in a private environment or community.

(2) The Constitution of the Federative Republic of Brazil, in its Article 5-iv, guarantees to all Brazilians and foreigners residing in Brazil that "VI - the freedom of conscience and belief is inviolable, the free exercise of religious worship being assured and the protection of the places of worship and their liturgies is guaranteed in the form of the law; (...)"

(3) That is, the constitutional text establishes the freedom of conscience, belief and worship for everyone in the national territory and does not make judgments of value regarding the transcendental foundation of any specific religion. Terms such as "Islamophobia" are not found in the national legal system, in view of the broad protection of freedom of religion, conscience and belief, without discrimination. This justifies, for example, the activities carried out by the Coordination of Freedoms of Religion or Belief, Conscience, Expression and Academic Freedoms, according to its competencies regarding public policies for the promotion and defense of freedom of religion and freedom of expression for everyone.

(4) Brazil is a secular State, that is, while there is no official religion, it allows, in its territory, the peaceful coexistence among the various religions and beliefs and guarantees to the temples of any cult, immunity from any type of tax. This right is guaranteed by the Federal Constitution, in its Art. 150. Furthermore, the collaborative model of Brazilian secularism is established by the Federal Constitution, Art. 19 (i), which prohibits the State from establishing, subsidizing, embarrassing, depending on, or allying with religious cults or churches, except in the case of a collaboration for the public interest. Article 5 (vi) of the 1988 Federal Constitution establishes that temples and sacred places be protected against

acts of vandalism and their liturgical practices be protected against disturbances, interruptions or impediments.

(5) The Brazilian State guarantees the right to freedom of worship and religious association, which consists of the right to perform religious worship according to one's beliefs and traditions, to associate with other people for the collective practice and collective disclosure of religious belief, and the organization of religious bodies under the private law. This right also implies the right of religious worship participants not to suffer state embarrassment and restrictions in their cults, practices and religious associations. Beyond its constitutional nature, as established by Arts. 5 (vi), 16 (i), and 19 (i), of the Federal Constitution of 1988, those rights are also protected by Art. 18 of the Universal Declaration of Human Rights (1948), and by Art. 12 (i, ii and iii) of the American Convention on Human Rights (1969).

(6) Furthermore, the Brazilian State guarantees the right to religious and moral education according to the guidance of parents and guardians, which consists of the right of parents to give their children a religious and moral education according to their own convictions. This right must be respected by the State and by any public or private educational institution, and the religious education, optional in public elementary schools, may complement, but not invalidate that fundamental right. The right to religious education in public schools is established by the Brazilian Federal Constitution, Art. 210, § 1, and the right of parents and guardians is established by Art. 12, IV, of the American Convention on Human Rights (1969).

(7) In addition to the right to religious and moral education, the Federal Constitution also establishes, in its Article 5 (vii), the right to religious assistance in collective internment entities, in recognition of the importance of religion for the sake of the integral care of interns in those institutions.

(8) Finally, we highlight the following laws, which penalize conducts against the right to freedom of religion, conscience and belief:

- (a) Article 208 of the Brazilian Penal Code: it is a crime to mock someone publicly, for reasons of belief or religious function; to prevent or disturb a ceremony or practice of religious worship; to publicly vilify an act or object of religious worship, subject to the penalty of detention, from one month to one year, or a fine;
- b) Article 140 of the Brazilian Penal Code: it is a crime to revile someone, offending their dignity or decorum, and if the insult consists, among other reasons, in the use of elements referring to another person's religion, the penalty is the imprisonment from one to three years and a fine;
- c) Article 149 of the Brazilian Penal Code: it is a crime to reduce someone to a condition analogous to slavery, either by subjecting him/her to forced labor or to an exhaustive day's work, or by subjecting him/her to degrading working conditions, or by restricting, by any means, his/her movement due to a debt contracted with the employer or the employee. The penalty is increased by half if the crime is committed, among other reasons, due to religious prejudice;
- d) Article 1 of Law 7.716/1989: crimes resulting from discrimination or prejudice of religion, among others, shall be punished according to this law;
- e) Article 20 of Law No. 9,459/1997: it is a crime to practice, induce or incite discrimination or prejudice against religions, subject to the penalty of imprisonment for one to three years and a fine.

(9) The Ministry of Women, Family and Human Rights (MMFDH) has an important communication channel of the State with society, called "Dial Human Rights - Dial 100". Anyone who feels discriminated against because of religious issues can, regardless of their religion, denounce them through this hotline. In this channel, the MMFDH provides a specific module for denunciations motivated by religious discrimination. The complaints received are forwarded to the human rights protection, defense and accountability agencies, respecting their competence and specific attributions, prioritizing the agency that is most likely to immediately intervene to break the cycle of violence and provide the victim effective protection. Between 2011 and the first semester of 2019, more than 3,000 complaints were registered in the religious discrimination module. The process of typifying violations is currently under review to respond to the need to monitor their indicators.

(10) In the light of the above, therefore, it is possible to verify that the Brazilian State, through its constitutional text and its infra-constitutional laws, promotes and defends the right to freedom of religion or belief. Such right is constitutionally recognized for all, in a broad manner, regardless of the belief or religion that any individual has and manifests within the Brazilian territory.

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