



**Permanent Mission of Brazil to the United Nations Office
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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 High Commissioner for Human Rights and has the honor to submit herewith the reply from the Federative Republic of Brazil to the **letter from the Chairperson-rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination**, issued on 16 January 2020.

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, 17 March, 2020

Working Group on the use of Mercenaries

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FEDERATIVE REPUBLIC OF BRAZIL

**RESPONSE TO LETTER FROM THE PRESIDENT OF THE WORKING GROUP
ON THE USE OF MERCENARIES AS A MEANS OF VIOLATING HUMAN
RIGHTS AND IMPEDING THE EXERCISE OF THE RIGHT OF PEOPLES TO
SELF-DETERMINATION, DATED 16 JANUARY 2020.**

With regard to the letter from the Chairperson-Rapporteur of the Working Group on the use of mercenaries, issued on 16 January 2020, regarding the call for inputs on “the role of private military and security companies in immigration and border management and the impact on the protection of the rights of all migrants”, the Brazilian Government presents the following information:

(1) In Brazil, the Federal Constitution establishes that the maritime, airport and border police duties are the responsibility of the Federal Police (art. 144, §1, III, of the Federal Constitution). Additionally, the Migration Law (Law No. 13.445/2017), in its Article 38, establishes that the maritime, airport and border police functions are carried out by the Federal Police at the points of entrance and exit of the national territory. Although the Federal Police have the support of outsourced employees in its your workforce, their activities are performed under the supervision of official staff members empowered to perform duties on behalf of the Brazilian migration authority.

(2) In this context, the issue of “the role of private military and security companies in immigration and border management and the impact on the protection of the rights of all migrants” is not linked to the legislative-institutional framework in force in the Brazilian territory in this matter. That notwithstanding, the Brazilian government understands that the respect to and observance of the international human rights instruments by private companies operating in border management in other countries is fundamental, in order to ensure the protection of the human rights of immigrants.

(3) Brazil possesses advanced regulation on refuge (Law No. 9474/1997) and migration (Law No.13,445/2017), which consolidate the human rights perspective in the context of the national migration policy. The Brazilian humanitarian response to recent migration flows, such as the ones from Haiti, Syria and Venezuela, has positioned the country at the forefront of this issue. Brazil has become a reference in receiving migratory flows, in line with the highest international norms and standards.

(4) The Brazilian migration balance is negative, taking into account that roughly 3 million Brazilians live abroad and approximately 775 thousand foreign immigrants live in Brazil. Therefore the following provisions of the Migration Act that deal with the situation of the Brazilian emigrant should be highlighted:

Art. 1 - This Law provides for the rights and duties of the migrant and the visitor, regulates their entry and stay in the country and establishes principles and guidelines for public policies for emigrants.

§ 1 For the purposes of this Law, it is considered:

I - (vetoed);

II - immigrant: a person who is a national of another country or a stateless person who works or lives and settle himself/herself temporarily or permanently in Brazil;

III - emigrant: Brazilian person who establishes himself/herself temporarily or permanently in a foreign country;

IV - border resident: a person who is national of a neighboring country or a stateless person who retains his usual residence in a bordering municipality in a neighboring country;

V - visitor: national of another country or stateless person coming to Brazil for short duration stays, without the intention to settle temporary or definitely in the national territory;

VI - stateless person: a person who is not considered to be national by any state in accordance with its legislation, according to the Convention on the Statute of the Stateless persons (1954), promulgated by Decree No. 4246, of 22 May 2002, or so recognized by the Brazilian State.

(...)

CHAPTER VII

ON THE EMIGRANT

Section I

Public Policies for Emigrants

Art. 77 The public policies for emigrants shall observe the following principles and guidelines:

I - protection and provision of consular assistance by means of the Brazilian representations abroad;

II - promotion of dignified living conditions, by means of, among others, facilitating consular registration and provision of consular services in the areas of education, health, labour, social security and culture;

III - promotion of studies and research on emigrants and the communities of Brazilians living abroad, in order to provide input to the drafting of public policies;

IV - diplomatic action, in the bilateral, regional and multilateral spheres, in defense of the rights of the Brazilian emigrant, according to the international law;

V - integrated governmental action, with participation of government bodies acting in the thematic areas mentioned in items I, II, III and IV, aiming at assisting the Brazilian communities living abroad; and

VI - a permanent effort to debureaucratize, update and modernize the service system, with the aim of improving the assistance to the emigrant.

(5) In conclusion, taking into account the promotion and protection of the human rights of migrant persons, it is understood that, in the case of the Brazilian migration policy, the debate on the role of private military and security companies in immigration and border management and the impact on the protection of the rights of all migrants is more strongly related to the perspective of the human rights protection of Brazilian emigrants in other countries.
