Human Rights: Not a Priority for Brazilian Diplomacy

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Brazil has played a constructive role on the United Nations Human Rights Council since its creation in 2006 with an inclination for abstention, justified by a desire for a balanced approach towards regimes of different history, traditional values, and cultural background. It is uneasy for Brazilian diplomacy to lay all the blame at a regime and turn a blind eye to Brazil's violent and unequal social reality. Brazil's many social shortcomings represent a major handicap in its multilateral approach to humanitarian issues. With the election in October 2018 of Jair Bolsonaro, a former member of Congress who has endorsed torture and made openly racist, homophobic and misogynist statements, homicides, unlawful killings by police, discriminations, social unrest and violations of human rights are expecting to reach a new record in Brazil.

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It was by initiative of former President Lula that the Group of High Authorities on Human Rights (RAADH) was created within Mercosur. The Group held its 32th session in Montevideo in October 2018. Brazil has played a constructive and generally praised role on the United Nations Human Rights Council since its creation in 2006 and was elected to represent the Latin American and the Caribbean States on three occasions. But in truth, human rights have never been a top priority in Brazilian diplomacy.

Introduction

A review of Brazilian votes in the United Nations on human rights issues evidences an inclination for abstention, justified by a desire for a constructive approach towards regimes of different history, traditional values, and cultural background. With the election in October 2018 of Jair Bolsonaro, a former member of Congress who has endorsed torture and made openly racist, homophobic, and misogynist statements, homicides, unlawful killings by police, discriminations, social unrest and violations of human rights are expecting to reach a new record in Brazil. According to the Brazilian Forum on Public Security, police officers, including off-duty officers, killed 5,144 people in 2017, 20 percent more than in 2016. In 2017, Congress adopted a law which transferred trials of members of the armed forces accused of unlawful killings from civilian to military courts. The Brazilian government has failed to publish a yearly report about killings by and of police officers, as instructed by the Inter-American Court of Human Rights in a 2017 ruling. President Jair Bolsonaro has reformulated the Foreign Affairs Ministry's (Itamaraty) Secretariats, moving human rights issues to a new secretariat of "national sovereignty and citizenship", which will be in charge of all resolutions to be voted at the U.N. Human Rights Council where Brazil is elected up to September 2019. Apart from situations where the

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Bolsonaro government could find an opportunity to close ranks with Donald Trump such as the vote in favor of the resolution condemning abuses in Venezuela that the so-called Lima Group countries introduced to the UN Human Rights Council, Brazil will pursue a policy of benign neglect as regard human issues.

Human Rights Addressed in a Marginal Way by the Brazilian Authorities

On an official visit to Havana in March 2010, President Lula equated Cuban political prisoners with common criminals, shortly after the death of the dissident Orlando Zapato Tamoyo following an 80-day hunger strike. Visiting Havana in February 2012, his successor, Dilma Rousseff, shortly after the death of another dissident, Wilmar Villar Mendoza, also as a result of a hunger strike, expressed no solidarity with Cuban political prisoners or concern about the conditions of their incarceration. Indeed, Rousseff limited herself to allusions to the iniquities of the Guantanamo prison and recommends for a multilateral approach to the issue of human rights. Since the late 1980s, Brazil has abstained on votes at the United Nations regarding the issue of human rights in Cuba. From Dilma Rousseff, who had experienced dictatorship and torture in her youth, one would have expected a more nuanced position for Brazil on this issue.

Brazil's procrastination in directly condemning violation of human rights in Cuba has been attributed to the respect for the Cuban Revolution on the part of the political elites in the Workers' Party and by the entire Latin American left. It is held up as a model, a symbol of dignity and of resistance to imperialism under the lash of the trade embargo imposed since 1962 by the world's number one power and its boycott on investments and financing (Cuban Democracy Act in 1992 and Helms-Burton Act in 1996) and victimized by terrorist plots by Cuban exiles funded and sponsored by the United States.

Most of the leaders of Brazilian left-wing political parties took refuge in or were exiled to Cuba during the military dictatorship. Many Brazilian intellectuals and artists obtained some of their education or training in Cuba. Some 60 current Brazilian filmmakers got their training at the School of San Antonio de Los Baños and at the Cuban Institute of Cinematographic Art and Industry (ICAIC). Furthermore, in a profoundly unequal society, such as Brazil's, the respect for the basic human rights of home, healthcare, and public education that has characterized Cuban society would serve as an incentive to tolerance and indulgence for the progressive elites. More than three fourths of Cubans own their homes, although comfort is not always guaranteed; 98% have access to running water and electricity. The number of doctors *per capita* is one of the highest in the world (more than six physicians per 1,000 inhabitants; Brazil has fewer than two). Each year the Cuban government welcomes 10,000 scholarship holders from Africa and Latin America. Since its inauguration in 2009, the Latin American School of Medicine, based in Havana, has trained 24,486 doctors from 83 countries at no cost, some 3,000 of them from Africa. Cuba was an active participant in the public health programs funded by Venezuela, preeminent among which is "Operación Milagro" against blindness and cataracts (more than three million patients selected from poor communities have undergone operations free of charge by Cuban doctors in Latin America since 2008).

These considerations have their share of merit. But in truth, human rights have never been a top priority in Brazilian diplomacy. It was not until 1977 that Brazil joined the United Nations Commission on Human Rights, created in 1946. It took Brazil 10 years to recognize the jurisdiction of the Inter-American Court of Human Rights (during the presidency of Fernando Henrique Cardoso in 1988) and 27 years after the end of the dictatorship to establish a commission of inquiry into disappearances (and murders) carried out by the military regime. Indeed, the latter initiative was only implemented under pressure from the OAS Commission on

Human Rights and only with repeated assurances that it was merely a question of information and not of judicial retribution. As regards the amnesty commission established on August 28, 2001 by the Ministry of Justice, it was 28 years after the fact before it finally approved provision of psychological support for the victims (*Clinicas* project implemented in April 2013).

This issue has never been addressed in more than a marginal way by the Brazilian diplomats the author has encountered over the course of career. During the dark years of the military dictatorship in Argentina, and when international organizations (e.g. Amnesty International, the Inter-American Commission on Human Rights) had brought to light the thousands of disappearances and kidnappings, a dozen of them Brazilian nationals, the author's fellow diplomats at the Brazilian embassy and consulate in Buenos Aires, all graduates of the Rio Branco Institute, were always quite reticent and reserved in meetings they attended at European embassies, and the question of taking measures against the authorities or police was never broached. Not even the case of Brazilian musician Francisco Tenório Cerqueira Junior could spur them to action. An icon of the *bossa-nova* who had come to Buenos Aires during a tour with Vinicius de Moraes, their colleague at Itamaraty, a poet and musician in his spare time, Cerqueira was kidnapped off the street after leaving his hotel (the Normandie) to buy cigarettes and was never seen again. One of his torturers, Claudio Vallejos, former member of the Naval Intelligence Service, who admitted participating in the kidnapping during an interview with a Brazilian magazine in Rio de Janeiro in 1986, was expelled from Brazil where he was living. He revealed that the Brazilian embassy had been informed of the death of the musician, which happened while he was being tortured at the Escuela Superior de Mecánica de la Armada (Navy Petty—Officers School of Mechanics—ESMA) on March 25, 1976, and of the delivery of his body to the local morgue. This information was never passed on to Cerqueira's family. The Argentine government eventually paid compensation to the family. It is thanks to an Argentine parliamentarian, Raul Puy that a commemorative plaque was finally put up on the façade of the Hotel Normandie. In February 2012, the Brazilian press again mentioned the presence of Vallejos in Brazil, in the State of Santa Catarina, where he had lived for 25 years, and his interrogation on January 4, 2012 for a number of cases of fraud, prior to his extradition to Argentina in March 2013. It was not until April 2013, through the mission to Buenos Aires of the National Truth Commission (*Comissão Nacional de Verdade*), that Brazil finally officially requested information from the Argentine authorities on acts of violence against Brazilian nationals between 1964 and 1985.

The newspaper *Correio Brasileiro* published a series of articles on Itamaraty's "secret service", the *Centro de Informações do Exterior* (CIEX). Between 1966 and 1985, CIEX cooperated with the military regime by keeping records and reporting on Brazilian political exiles. The archives to which journalist Claudio Dantas was given access contained files on 64 of the 380 activists murdered and/or disappeared during the years of the dictatorship.

The joint communiqué published after Rousseff's official visit to Beijing in April 2011 illustrates Brazil's cautious approach to the issue of human rights: "*The two parties will strengthen bilateral consultations on the issue of human rights and share experiences and practices*". What experiences and practices are being referred to here? Since 1989 and the suppression of demonstrations in Tiananmen Square in Beijing, China has been subjected to an embargo on weapons and sensitive materials thanks to gross violations of human rights.

The Violence and the Social Issues

Brazil is faced with growing internal violence (51,000 murders in 2012; 58,000 in 2014; 60,000 in 2016;

63,800 in 2017), in line with the general image of Latin America, Central America, and the Caribbean (with the exception of Cuba and Costa Rica), where homicide rates are among the highest in the world (28.9 per 100,000 inhabitants in Brazil in 2016 as opposed to the world average of 6.9, with rates in some Brazilian States—as Sergipe, Alagoas, Ceara—greater than 50 per 100,000 inhabitants and greater than 100 for the 18-24 age group). Brazil alone accounts for 11% of world homicides; more than two thirds are black or mulatto and more than half are young (15-29 years old). Of the 50 most dangerous cities in the world in terms of homicide, 19 are in Brazil. Brazil's *per capita* incarceration is fourth in the world for number of detainees. Brazil has the world's third largest prison population (approximately 700,000 of whom 217,000 awaiting trial); an appalling 195,000 non-executed arrest warrants.

There is some correlation between these rates and the social and economic exclusion of poor populations, but the situations are often much more complex (drug trafficking, illegal immigration, white collar crime, easy access to weapons, corruption in institutions, excessive impunity, further corruption of detainees in prison facilities that are veritable schools for criminality).

In August 2013, the Brazilian press reported that 20 years after the Candelária massacre (six street children and two adults were murdered on the night of July 23, 1993 as they slept next to the Candelária Church in Rio de Janeiro), no one had been sentenced for the killings. Of the 65 children who survived the massacre, 43 had subsequently been murdered, 10 were in jail, and five had died of AIDS. In spite of the fact that Brazil has ratified the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly of the United Nations on December 20, 2006, the press frequently reports instances of kidnappings by police, although the phenomenon is difficult to quantify because of the lack of official data. In the States of Rio de Janeiro, São Paulo, Minas Gerais, Goiás, and Parana, youths have been arrested by police in front of witnesses and never seen again.

Congress enacted a series of measures in July 2013 to prevent the use of torture by the police (*Sistema Nacional de Prevenção e Combate a Tortura*), but 13 of the 27 Brazilian states have no such program despite federal directives adopted in 2007 (*Plano Nacional de Direitos Humanos—PNDH*) and the law of April 7, 1997 providing prison sentences for those who use torture.

Law No. 13.491, passed by the Brazilian Congress in October 2018, gives military courts jurisdiction over their personnel accused of human rights violations. Prior to the law's approval, the Ministry of Defense publicly made the case that allowing civilian courts to handle such cases would hinder policing operations. The new Ministry for Public Security, created in February 2018, is led by an army general, and in May 2018 the Brazilian military was deployed in response to the nationwide truckers' strike that blockaded highways. This was the first time the military had been used in this way since the end of the military dictatorship in 1985.

The Issue of Indigenous Peoples

The issue of indigenous peoples—one keenly followed by the media and public opinion, of great concern to a large number of non-governmental organizations, publicized by renowned artists and musicians, and studied and popularized by preeminent ethnologists and geographers—invariably puts Brazilian diplomacy on the defensive. In spite of the rights recognized and preserved in the 1988 Constitution and Brazil's ratification in 2002 of Convention 169 of the International Labour Organization regarding indigenous and tribal peoples, there has been no stop to agrarian conflicts. According to the Indigenous Missionary Council for Indigenous Peoples (CIMI), related to the Catholic Episcopal Conference, 676 *Indios* were murdered between 2003 and

2012, most of them in the State of Mato Grosso do Sul.

Many rural leaders and militants in the Landless Movement have also been killed, at times triggering an international outcry (Chico Mendes in December 1988; the American Dorothy Stang in February 2005; Maria and José Claudio da Silva in May 2011, to whom the United Nations paid homage on February 9, 2012; the Spaniard Gonzalo Alonso Hernández in August 2013). The Pastoral Land Commission, associated with the Catholic Church, lists 458 activists who were murdered between 2000 and 2012, most of them in the States of Pará and Rondônia.

According to the British NGO Global Witness, which has produced a list of 908 rural leaders killed worldwide between 2002 and 2013, Brazil alone accounts for nearly half, but over those last 12 years, they have been only 10 successful prosecutions in Brazil. Fifty rural leaders have been assassinated in 2015; 49 in 2016; 71 in 2017. Paraguay and Brazil are the countries with the world's most concentrated landholdings: In Paraguay, 80% of the land is owned by 2% of the population; in Brazil, less than 1% of rural landowners own 43% of the land.

Environmental Issues

In spite of its diplomatic efforts in international environmental policy, where it hopes to take the leadership role among southern countries, Brazil has difficulty in reconciling its international stance with the oftentimes laborious implementation of its own domestic policies to protect the surrounding environment. In spite of the Minamata Convention on Mercury established by the United Nations Environment Programme and signed by 128 countries, Brazilian negotiators were quite reluctant to be part of it, citing the heavy social consequences of a prohibition (10% of gold prospecting is conducted by independent prospectors known as *garimpeiros*, concentrated principally in the Amazon basin and numbering in the hundreds of thousands). The convention was finally ratified in August 2017. Brazil is the leading consumer of pesticides per capita at five liters per year (one billion liters in 2013, some 20% of global demand), a heritage of the 1970s when farmers could only obtain credit by purchasing pesticides. Brazil is the world's third largest producer of asbestos but in November 2017 Brazil's Supreme Court finally voted to ban the substance responsible for deadly mesothelioma and other diseases. Of the 10 most populous countries in the world, only Brazil is the only one, with Japan, to have passed comprehensive legislation to ban asbestos.

Journalists Victims

During the 28th session of the Intergovernmental Council of the UNESCO International Program for the Development of Communication (IPDC), the director of the program presented a Plan for the Safety of Journalists, which was developed through consultations with member countries, the principal NGOs, and the media. However, it was not possible to adopt the Plan because of opposition from Brazil, India, Pakistan, Cuba, and Venezuela. The Brazilian delegation had raised a procedural point by stating that UNESCO did not have the authority to issue such a document. In truth, records for these countries—and we must add Honduras and Russia—in the years 2010-2011 show a high number of imprisoned or murdered journalists. In 2016, the non-governmental organization Reporters Without Borders ranked Brazil 104th out of 179 countries in terms of freedom of the press. According to the Committee to Protect Journalists 42 journalists were killed between 1992 and 2019. Brazil continues to be the western hemisphere's third deadliest country for media personnel, after Mexico and Honduras. All of them were investigating sensitive subjects, such as corruption and organized crime.

The National Truth Commission

Among the principal Latin American countries suffering repression and dictatorships, Brazil is one of the few that have not reviewed their amnesty laws or opened, to date, any judicial inquiries into the fate of the victims and the identities of the torturers. In Brazil and many other Latin American countries, amnesty laws were considered a necessary and inevitable evil in order to establish the rule of law during the delicate transition process and put an end to state-of-emergency rule: 40% of the amnesty laws enacted during the period of the military regime are still in force. But these laws are generally repealed for the sake of justice and fairness to the victims once democratic institutions have been restored. Brazil stands out for its inaction, with the exception of some parsimonious, and now capped, indemnities. The Brazilian Supreme Court (*Tribunal Superior Federal*), responding to a petition from the Lawyers Guild, refused to review the 28 August 1979 Amnesty Law, enacted under the military regime, exempting state agents, members of the armed forces and police, and opponents of the regime from prosecution for crimes committed between 1961 and 1979. This law was approved by a vote of 206 against 201 in a parliament where one third of the deputies had been appointed by the military.

The National Truth Commission (*Comissão Nacional da Verdade*), finally implemented by Congress in September 2011 after repeated motions by the Inter-American Commission on Human Rights regarding the cases of 62 deaths and disappearances during the Araguaia Guerrilla War (1972-1974) had very limited authority, no budget of its own, and a very small staff (seven people and a maximum of 24 months of limited activities). The members were not named until May 2012; more than eight months after the Commission was created. During the inauguration ceremony in Brasília, the daughter of Deputy Rubens Paiva, who was arrested at his home on January 20, 1971 and never seen again, was invited to speak but ultimately prevented from doing so. The coordinator of the Commission was Paulo Sergio Pinheiro, who was also the Chairman of the International Commission of Inquiry for Syria.

One gets an idea of the indifference or unwillingness to know in Brazilian society from an editorial in the newspaper *O'Globo*, a generally middle-of-the-road publication, about the Commission: "Some of the dead and disappeared whose fates are being investigated by the Truth Commission did not take up arms in favor of democracy, but merely to replace one dictatorship with another". The federal courts have cooperated only to the point of issuing a *habeas corpus* in favor of the former commander of the torture facility during the 1970s in São Paulo, Colonel Alberto Brilhante Ustra, so that he could stand mute before the public hearing to which he was summoned by the Commission in May 2013. The Colonel ran the interrogation center during the country's military dictatorship in which former President Dilma Rousseff was tortured in her youth. President Bolsonaro, elected in November 2018, dedicated publicly to Colonel Ustra his vote in April 2016 when President Dilma Rousseff's impeachment was put to a vote in Congress: "In memory of Col. Carlos Alberto Brilhante Ustra, the terror of Dilma Rousseff ... I vote YES".

The institution of this Commission was met with the publication of a manifesto signed by 350 retired officers, including 44 generals, and among them Maynard Marques de Santa Rosa was relieved of his functions by the Minister of Defense in February 2010 for having publicly labeled the Commission as the "*slander commission*". The manifesto was also a source of embarrassment for the Defense Minister, Celso Amorim: former director of the Brazilian state-funded movie production and distribution company Embrafilme (1979-1982), who was removed by the military dictatorship in 1982 for having authorized the distribution of

Roberto Farias's movie *Para Frente Brasil*, which exposed the use of torture.

On December 10, 2014, the Brazilian Truth Commission submitted its 4,300-page report giving the names of 434 dead or disappeared people, a higher number than envisaged because the Commission, not wanting to offend the military as an institution, did not focus exclusively on the years of the dictatorship but extended its investigation back to 1946. A list naming 377 torturers or people with clear responsibilities in the chain of command leading to disappearances and torture was included as an appendix to the report.

The Inter-American Court of Human Rights stated in 2012 that the Brazilian Truth Commission did not eliminate the country's obligation to determine the truth and assign individual responsibilities via judicial inquiry. International law requires prosecution of those who violate human rights. All international conventions are aligned in this regard (Convention on the Prevention and Punishment of the Crime of Genocide, 1948; European Convention on Human Rights, 1959; International Covenant on Civil and Political Rights, 1966; American Convention on Human Rights, 1969; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984; and International Convention for the Protection of All Persons from Enforced Disappearance, 2007).

The Inter-American Court of Human Rights

Twenty five members of the Organization of American States (OAS) have recognized the jurisdiction of the Inter-American Court of Human Rights (IACHR, associated with the Inter-American Commission on Human Rights), founded in 1979 and based in San José, Costa Rica. Unlike the European system, where oversight power of the execution of judgments is in the hands of the Committee of Ministers of the Council of Europe, the IACHR has sole oversight over the execution of its decisions. In September 2012, Venezuela denounced the Inter-American Commission on Human Rights, and many other Latin American countries (Nicaragua, Bolivia, and Ecuador) have taken their distance from this organization, which has accomplished exemplary work in Latin America over the past 20 years. The United States and Canada are not parties to the Convention and were not invited. Paulo Vannuchi, former Secretary for Human Rights of the Lula government (2005-2010), was elected to the Commission in June 2013; his term expired on December 31, 2017. The Court is presided by the Brazilian judge, Roberto de Figueiredo Caldas.

The hostility—strongly shared by Brazil until the election of Bolsonaro in November 2018—of the ALBA countries, and especially Venezuela and Ecuador with president Rafael Correa (2007-2017), toward the Commission, which they accuse of not having shown the same diligence in addressing the issue of human rights in the United States and Canada and not having raised the issue of the Guantanamo Bay detention camp, has not affected the remarkable work carried out by the Court in a strongly polarized political context and relied on a controversial mode of financing.

Brazil refused to participate in the meeting of the Inter-American Commission on Human Rights of the Organization of American States held on October 26, 2011 protesting the negative report of the Commission on the Belo Monte hydroelectric plant. In a gesture of irritation, it withdrew—temporarily—the candidacy of Paulo Vannuchi, as its representative on the Commission. Located on the Xingu River within the Xingu National Park, this hydroelectric plant is part of a complex of six dams approved by the Brazilian Congress in July 2005 and scheduled to go into operation in 2019. It has met with opposition from the alter-globalization movement, from the principal NGOs and the indigenous communities, who are concerned about the impact of the project on the populations living along the river. The World Commission on Dams has expressed a negative

opinion of this project, recalling the unfortunate experience of the Balbina Dam near Manaus, built between 1975 and 1986 and flooding 2,700 km² of Amazon forest. The Belo Monte dam (in Altamira) is expected to flood more than twice that area. It will be the world's third-largest dam by generating capacity, behind the Three Gorges Dam (China) and the Itaipu Dam on the border with Paraguay.

The rural exodus, the demographic expansion of destitute populations, and burgeoning urbanization have led to an alarming outcome: 44% of households do not have access to safe drinking water and 80% of their wastewater goes untreated. In the period 2000-2010, bracketing the Lula presidency, the rate of provision of basic sanitation to homes was slower than it had been in the previous decade.

The International Court of Justice

Brazil has been a member of the International Court of Justice, the primary judicial branch of the United Nations whose main function is to settle legal disputes among member countries, since its creation in 1946. It is composed of 15 judges, including one Brazilian judge, Antonio Augusto Cançado Trindade, elected to serve from 2009 to 2018. He has been a professor since 1979 at the Rio Branco Institute, the training venue for Brazilian diplomats.

In June 2002, Brazil ratified the Rome Statute, the treaty that established the International Criminal Court (ICC) in 1998. The Court prosecutes four core international crimes, including crimes against humanity. The ICC is based in The Hague (Netherlands). The Court is currently recognized by 123 countries, including all countries in Latin America and the Caribbean, excluding Haiti and Cuba. Neither China nor India have signed the Rome Statute; Russia, Israel, and the United States have signed but not ratified it. In December 2001, the U.S. Congress passed a law exempting U.S. citizens and military personnel from prosecution by the Court. The American Service-Members' Protection Act, better known to its detractors as the "Netherlands Invasion Act", authorizes the President of the United States to use military force to free U.S. service members detained by the ICC.

The Brazilian judge, Sylvia Helena de Figueiredo Steiner, was allowed to sit on the court until the end of the trial over which she was presiding, in keeping with its statutes. She served on the Commission on Human Rights of the Order of Attorneys of Brazil (OAB) and on the Peace and Justice Commission of the São Paulo archdiocese. As she sees it, one of the Court's challenges is to find an equilibrium between the notions of justice and peace without compromising the principles laid out in the Rome Statute. The ICC should be a last resort. National jurisdictions should take precedent; hence the importance of working the Rome Statute into national legislation.

To date, the Court's judgments have exclusively regarded Africans, with the exception of war criminals from the former Yugoslavia and the Special tribunal for Lebanon that prosecuted the assassination of Rafic Hariri, former Lebanese prime minister, on February 14, 2005. Granted that Gaza is not a state and that the United States are not parties to the Court, Celso Amorim deplores the fact that the Court has not expressed an opinion regarding the civilian deaths in the Gaza Strip or the Guantanamo Bay detention camp, focusing its decisions on non-European violators, almost all of them African and generally on the other side of the political fence from western powers.

Responsibility While Protecting

In 2011, President Dilma Rousseff introduced the complementary concept of "Responsibility While

Protecting” (RwP), observing that this responsibility can only be exercised within the framework of the United Nations and in strict adherence to its initial mandate (alluding to the intervention in Libya). Brasilia is very reticent on the concept of “Responsibility to Protect” (R2P), which it sees as giving free rein to any intervention that can be masked with a humanitarian label, as we have seen in the Libyan crisis. The resolution adopted by the Non-Aligned Movement in Kuala Lumpur in February 2003, shortly after the invasion of Iraq, raised the alarm about the improper use of the so-called right to humanitarian intervention, which is absent from the Charter of the United Nations and from international law. The fear is that it will be used as cover to legitimize illegal interventions, without the express authorization of the UN Security Council, against independent, nationalist regimes.

An “Equidistant” Approach

A review of Brazilian voting behavior at the United Nations on questions regarding China (2004), Chechnya (2003-2004), Zimbabwe (2002-2004), Darfur (2006), North Korea (2009), and Iran (2010), evidences a propensity for abstention, justified by a desire for an “equidistant” approach, presented as being constructive and non-punitive. Brazil restated its proposal for a yearly global report on human rights around the world to the United Nations in 2005, originally submitted before the full Assembly in March 1998 by the Secretary of State on Human Rights of the Cardoso government. The goal of the proposal was to prevent the polarizing effect of an investigation targeting a single country due to reasons of urgency. It was to be “a global report to be prepared by an impartial team of UN experts [...] based on multilaterally defined criteria and parameters”, in the words of Amorim during his speech at the inaugural session of the Human Rights Council on June 19, 2006 in Geneva, Switzerland.

The Universal Periodic Review (UPR) instituted in 2007 by the Human Rights Council of the United Nations, headquartered in Geneva, works well for Brazilian diplomacy, which considers it to be a constructive approach. What country has sufficient moral authority on human rights to judge another? During the 27th session of the UPR in May 2017, then the third cycle of UPR of Brazil, the country received 170 recommendations, no supporting only one for constitutional reasons (to abolish the separate system of military police and civilian police, presented by Denmark).

Conclusion

A number of factors have compromised the ability to approach the global situation via a constructive, universal critique, within the framework of the Kantian categorical imperatives implicit in the domain of human rights: the Guantanamo Kafkaesque detention center, the killings committed by United States Marines in near total impunity in Iraq, Afghanistan, Yemen, Somalia...; the torture and humiliation of Muslim detainees by their American jailers in Iraq and Afghanistan, widely reported in mainstream media and treated in a less-than-outraged manner by President Obama before the Senate published a voluminous report (6,700 pages) in 2014, revealing the alarming extent of the use of torture by the Central Intelligence Agency (CIA) and the psychological assistance provided to torturers by psychologists James Mitchell and Bruce Jessen from the American Psychological Association; the euphemism for torture (“*enhanced interrogation techniques*”) used in official memorandums to cloak political responsibility and shield officers, coined in August 2002 by the legal advisors John Yoo, Jay Bybee, and Alberto Gonzales (Yoo is currently a professor of law at the University of Berkeley; Bybee is a federal judge on the U.S. Court of Appeals and Gonzales, former U.S. Attorney General

from February 2005 to September 2007, is currently Dean of Belmont University College of Law in Nashville, Tennessee); the targeted executions by remote-controlled drones and their “collateral damage” in the form of civilian deaths; the abductions of political leaders and militants in Europe organized by the CIA and their secret transfer (“*extraordinary rendition*”) to prisons in third-party countries where they were interrogated using methods worthy of the Gestapo and the failure of the European legal system to prosecute the perpetrators; the ferocious murder of journalist Jamal Kashoggi, whose body was dismembered by a bone saw inside the Saudi Consulate in Turkey; the murder with impunity of Palestinian children by Israel’s snipers in Gaza’s killing fields; the ban of judges and prosecutors of the International Criminal Court from entering the United States to investigate war crimes and crimes against humanity that were committed in the course of the war in Afghanistan.

In these conditions, it is fairly pointless to express a value judgment on Brazil’s Human Rights policy.

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