



**REPORT ON THE PERFORMANCE OF THE PUBLIC DEFENDER OFFICE OF THE STATE OF SÃO
PAULO IN DEFENSE OF THE RIGHT TO FREEDOM OF EXPRESSION**

São Paulo, April 4th, 2022

Dear Mr. Clément Nyaletsossi Voule Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of the United Nations,

The SPECIALIZED CENTER OF CITIZENSHIP AND HUMAN RIGHTS (NCDH) of the Public Defender Office of the State of São Paulo, created by State Supplementary Law 988 of January 9th, 2006, hereby offers a report of its judicial and extrajudicial actions in promoting and defending the right to freedom of expression and the right to expression within the Brazilian legal order, particularly in the State of São Paulo, Brazil.

**1) INTRODUCTION - THE PUBLIC DEFENDER AND THE RIGHT TO FREEDOM OF
EXPRESSION**

The Public Defender is, according to the Brazilian constitutional text (art. 134, *caput*, CR 1988), the expression and instrument of the democratic regime, entrusting it with the promotion of human rights and the defense of the individual and collective rights of those in need. The protection of democracy and all related rights enjoy the highest relevance in the institutional mission of the Public Defender, especially with regard to the right to freedom of expression, whose safeguard is considered a crucial point of action for the performance of the Public Defender, not only because it is a global pillar of democratic societies, but also because of their unique importance to marginalised and excluded groups of people (in need in the broad sense) that find in the right to freedom of expression the means of participating in public debate and of being heard and relevant in society.

It should be remembered, however, that the Public Defender's Office is still a relatively new institution, having been established in the State of São Paulo only in 2006. Thus, it has a small

Rua Boa Vista, 150, mezanino (NECDH). Centro, São Paulo/SP. CEP 01014-000.
nucleo.dh@defensoria.sp.def.br



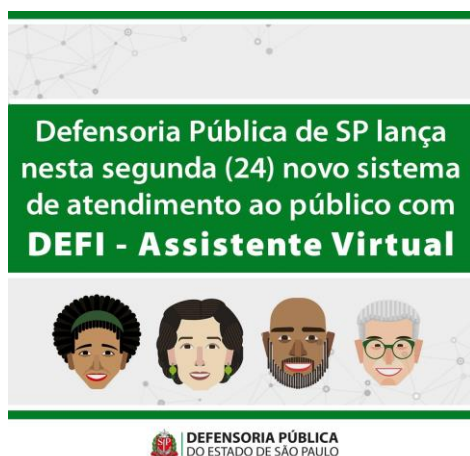
number of members (792 defenders in 2022, while, comparatively, the Court of Justice of São Paulo has approximately 2,500 judges), with a *deficit*¹ of almost 1,400 professionals. However, it is also certain that, despite these institutional difficulties, the Public Defender's Office never ceased to actively engage in the judicial and extrajudicial areas in order to fulfill its constitutional purposes and guarantee the protection of freedom of expression.

The following is a brief report of some of the main forms and means of action of the Public Defender on this theme, as well as some obstacles suffered in the fight to protect the right to freedom of expression in the Brazilian context.

2) ABOUT ACCESS TO A PUBLIC DEFENDER

2.1 Ordinary Service

In its daily activities, the Public Defender's Office provides channels of communication and care to the population, through which it is possible to report the occurrence of violations to any human rights, including freedom of expression. The service is done both through telephone lines (0800 773 4340) and through DEFI, virtual assistant of service, technology integrated to the website of the Public Defender's Office.



¹ <https://www.defensoria.sp.def.br/dpesp/Default.aspx?idPagina=2871>. On the subject, check it out: <https://pesquisanacionaldefensoria.com.br/pesquisa-nacional-2020/analise-nacional/> Last accessed: 05/04/2021.



Image : DEFI electronic service system, available on the website of the Public Defender's Office of São Paulo.

2.2 Observatory against violence by intolerance

In addition, the creation of the observatory against violence by intolerance stands out. This was installed in partnership² with the Federal Public Defender's Office because of the situation experienced during the 2018 elections, when there were a considerable number of cases in which the right to freedom of expression was being threatened mainly due to political intolerance. Since its creation, the observatory has been intended to continuously collect data on violence motivated by all forms of discrimination, in order to support policies to prevent and repress this form of violence.



Image: Announcement of the launch of the Observatory of Violence by Intolerance.

2.3 Duty in Police Stations

Public Defender's Office also works during some popular demonstrations and major events. The General Public Defender's Office, through a Normative Act of February 12, 2019, established the performance in police stations for legal assistance for people arrested during

² Check: <https://www.defensoria.sp.def.br/dpesp/Default.aspx?idPagina=6534> Last access on 05/04/2022.
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nucleo.dh@defensoria.sp.def.br



popular demonstrations. Thus, the Public Defender's Office provides, on occasions of popular demonstrations, access to the public via Telephone or Whatsapp, in order to allow the monitoring of the events occurred in the demonstrations and the defense of the rights of citizens involved, as well as the presence of a public defender in the police station in case of arrest. This initiative has allowed Public Defender actions to be more quickly, trying to avoid illegal and arbitrary arrests, avoiding the abuse of police power and the undue suppression of the right to freedom of expression.³

Periodic training activities are carried out with the public defenders to work on this theme. The Special Committee for the organization of the activity also participates in meetings held by the Military Police, prior to the demonstrations, to organize the acts.



Image: Promotional material about the service offered by the Public Defender during popular demonstrations

³ Available in

<https://www.defensoria.sp.def.br/dpesp/Conteudos/Materia/MateriaMostra.aspx?idItem=83173&idModulo=9805>. Accessed 06/04/2022

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nucleo.dh@defensoria.sp.def.br



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Capacitação sobre
**Atuação em Delegacias no
Contexto de Manifestações**

**02 SET
2021**

9h às 12h

INSCREVA-SE

Inscrições até 01/09 às 16h

Evento voltado para o público infirmo: Defensores/as.
O convite para participação será enviado para os/as integrantes do grupo de atuação e aos/as Defensores/as inscritos/as.
O evento será transmitido pela plataforma Microsoft Teams.

Programação

9h00 Abertura RAFAEL PITANGA GUEDES Primeiro Subdefensor Público-Geral	10h45 Estratégias de comunicação com a imprensa RODRIGO VIDAL NITRINI Defensor Público Coordenador De Comunicação Social e Assessoria de Imprensa
9h15 Contextualização da atuação da sociedade civil e da Defensoria Pública do Estado nas manifestações BRUNO LANGEANI Instituto Sou da Paz JULIANA GARCIA BELLOQUE Defensora Pública	11h00 Principais linhas de defesa na atuação em Delegacias GLAUCO MAZETTO TAVARES MOREIRA Defensor Público Assessor Criminal
10h00 Procedimentos para atuação em Delegacias em defesa de pessoas presas em manifestações DAVI QUINTANILHA FAILDE DE AZEVEDO Defensor Público coordenador do Núcleo Especializado de Cidadania e Direitos Humanos FERNANDA PENTEADO BALERA Defensora Pública Coordenadora Auxiliar do Núcleo Especializado de Cidadania e Direitos Humanos DANIEL PALOFTI SECCO Defensor Público Coordenador Auxiliar do Núcleo Especializado de Infância e Juventude	11h45 Dúvidas e Encerramento

Dados e participantes do evento poderão sofrer alterações, a critério da Escola da Defensoria Pública do Estado de São Paulo - EDPE, sem aviso prévio. As agendas e convites emitidos serão de exclusiva responsabilidade dos(as) palestrantes, não representando necessariamente a posição institucional da EDPE ou da Defensoria Pública do Estado de São Paulo.

Image: Promotional material of the event "Training on Performance in Police Stations in the Context of Demonstrations"

2.4 On-site observation of demonstrations

The Specialized Center for Citizenship and Human Rights, together with the Specialized Center for Children and Youth and the Specialized Center for the Promotion and Defense of Women's Rights, of the Public Defender Office of the State of São Paulo, organized a pilot project for on-site monitoring of popular demonstrations as human rights observers. Some demonstrations were on-site monitored⁴ in 2019, in order to build a permanent action on the theme, in addition to "Duty in Police Stations", mentioned in topic 2.3. Training was also carried out with the "Defensoria del Pueblo of the Ciudad Autonoma de Buenos Aires", which has been performing on-site monitoring of protests for years.

⁴ According to some adaptation of the Guidelines for the Observation of Social Demonstrations and Protests. On the subject, check out: <https://ponte.org/onu-lanca-guia-para-observadores-de-direitos-humanos-em-protestos/>



**Defesa do Direito ao Protesto:
Experiências Brasil e Argentina**

27 de maio

08h30 **Café de boas-vindas**

9h **Mesa de Abertura**
Defensoria Geral do Estado de São Paulo
Defensoria del Pueblo
ONG Artigo 19
Conectas
Instituto Sou da Paz

09h30 **Protestos no Brasil**
Apresentação da pesquisa da ONG Artigo 19 sobre a percepção da população sobre o direito ao protesto
Camila Marques - Advogada/ONG Artigo 19

10h30 **Defesa do direito ao protesto no Brasil**
Davi Quintanilha - Defensor Público/NECDH DEESP
Rafael Lessa Vieira de Sá Meneses - Defensor Público/NECDH DEESP
Henrique Apolinário - Advogado/Conectas
Bruno Langeani - Advogado/Instituto Sou da Paz

11h30 **Debates**

13h30 **Defesa do Direito ao Protesto em Buenos Aires**
Florencia Kravetz
Carolina Verónica Arias
Defensora del Pueblo - Ciudad Autónoma de Buenos Aires

16h **Coffee - break**

16h30 **Acompanhamento in loco de Protestos em Buenos Aires**
Florencia Kravetz
Carolina Verónica Arias
Defensora del Pueblo - Ciudad Autónoma de Buenos Aires

18h **Encerramento**

Evento Gratuito
inscrições no dia
e local do evento
sujeito à disponibilidade
de vagas

Auditório da Defensoria Pública do Estado de São Paulo Rua Boa Vista, 200, Centro, São Paulo

Dados e campo observados do curso poderão sofrer alterações, o site da Defensoria Pública do Estado de São Paulo - DEPE, sem outro aviso.



Image: Promotional Material of the event "Defense of the Right to Protest: Experiences Brazil and Argentina"

2.5 Assistance to victims of violence

The Public Defender's Office also has duty at the Center for Reference and Victim Support (CRAVI), organized by the Secretariat of Citizenship and Justice of the State of São Paulo. The victim of violence, including violence practiced by the State, can access the Service via scheduling and receive psychological and legal care.

Currently the Public Defender Office of the State of São Paulo is about to develop its own project to care for victims of violence, called "Rede Acolhe", which intends to be executed next semester and will have its own multidisciplinary team. Based on this project, it is intended to establish a permanent policy of care for victims of violence practiced by the State.

3. NATIONAL JUDICIAL AND EXTRAJUDICIAL ACTION

With regard to the judicial action of the Public Defender's Office, it is noteworthy that the institution provides criminal legal assistance to all persons who are not able to bear the costs

Rua Boa Vista, 150, mezanino (NECDH). Centro, São Paulo/SP. CEP 01014-000.
nucleo.dh@defensoria.sp.def.br



of a private lawyer. This action includes the defense of any individual who is arrested during a popular demonstration and will be criminally prosecuted by the State. The Public Defender's Office focuses on these cases not only offering the proper defense of the accused, in order to ensure respect for their individual rights, but also curbing arbitrariness, such as illegal arrests, by the police and the judiciary.

On this point, special attention is paid to some legal initiatives made by the Public Defender's Office in the defense of the right to freedom of expression in the civil sphere.

3.1 Class Action about Popular Demonstrations (“ACP das Manifestações”)

In 2014, the Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo filed a Class Action (process 1016019- 17.2014.8.26.0053 of the 10th Public Court of Capital) in order to ask for the State of São Paulo to edit a regulation regarding the use of force in the context of demonstrations. This initiative came after the excessive use of force and human rights violations by the military police during the popular demonstrations that took place in 2013. In this lawsuit, several requests were made aimed at controlling the use of force, such as: limitations for the use of firearms, visible identification of police officers, indication of a civil negotiator, clear communication when there is a need for dispersion, among other requests.⁵

On the subject, it is important to point out that at the time of the trial of the case in the Court of Justice of São Paulo, the special rapporteur Maina Kiai sent to the Presidency of the Court a letter recognizing the importance of the lawsuit.

The case is currently in the Superior Court of Justice, awaiting trial of appeals.

3.2 Amicus Curiae at RE 806.339-SE

The Public Defender Office of the State of São Paulo joined as *amicus curiae* in the trial

⁵ Check:

https://esaj.tjsp.jus.br/cpopg/show.do?processo.codigo=1H0006JQA0000&processo.foro=53&processo.numero=1016019-17.2014.8.26.0053&uuidCaptcha=sajcaptcha_a30ad4c94dd84f7faeb42559cfd68789 Last accessed 05/04/2022.

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nucleo.dh@defensoria.sp.def.br



by the Supreme Court of the Extraordinary Appeal 806.339 - SE, in which the need for prior notice for the exercise of the right to assembly (and, consequently, of the right to manifestation) was discussed. In the context of such trial, the Supreme Court has established an important thesis of general repercussion in favor of the right to demonstration, establishing that the constitutional requirement of prior notice is satisfied with the information that allows the Government to ensure that its exercise is peaceful, and that there is no need of formal communication.⁶

3.3 Class Action of the State of São Paulo to impose restrictions on the right of demonstration

The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo intends to take part in a Class Action filed by the State of São Paulo with the objective of prohibiting antagonistic groups from performing simultaneous demonstrations on Avenida Paulista (process 1000553-30.2020.8.26.0228 of the 14th Public Court of the Capital). This lawsuit has caused a situation of legal uncertainty regarding the exercise of the right to assembly in the city of São Paulo and, due to this, various movements and social groups filed motions in the lawsuit seeking prior judicial authorization for demonstrations. The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo, considering this as a harmful situation to democracy and human rights, intends to take part in this lawsuit as *custos vulnerabilis* in order to contribute to the judicial debate, preventing a disproportionate and arbitrary injury of the right to manifestation⁷.

3.4 Paraisópolis funk street party

On December 1, 2019 nine young adults were killed after Military Police action to disperse a street cultural demonstration known as the funk street party of the D17 in Paraisópolis, a community in the south part of the city of São Paulo. Some young adults and teenagers were trapped in an alley and died of indirect mechanical asphyxiation. Since then, the Specialized Centers for Childhood and Youth (NEIJ) and Citizenship and Human Rights (NCDH) have assisted families

⁶ Check: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4555912> Last accessed: 05/04/2022

⁷ Check:

https://esaj.tjsp.jus.br/cpopg/show.do?processo.codigo=6C00011V90000&processo.foro=53&processo.numero=1000553-30.2020.8.26.0228&uuidCaptcha=sajcaptcha_efb6d35a5f274be1a4585884edf7ad45 Last cease: 05/04/2022.



seeking criminal accountability of the agents involved, as well as the payment of compensation for the families.

The police officers involved in the case have been indicted and the criminal lawsuit is still ongoing in the jury court. Monetary compensation was obtained in the administrative sphere, that is, without civil lawsuit, after the articulation of the Public Defender with the executive branch.

It is worth mentioning that the Public Defender Office of the State of São Paulo, together with the Center for Anthropology and Forensic Archaeology of the Federal University of São Paulo (CAAF/Unifesp), carried out the project "Paraisópolis: 3 acts, 9 lives". The initiative marked the two years of the deaths, consisting of nine videos with the result of the multidisciplinary analysis on the episode. Videos can be found here: <https://www.youtube.com/watch?v=WpctMuve-ys>.

In addition, the Specialized Centers of the Public Defender Office of the State of São Paulo carried out on-site monitoring and assistance in the organizing of the act that marked the 2 years of the deaths. Due to several difficulties, usually experienced by mothers who are victims of the State violence, the Public Defender Specialized Centers recognize great fear regarding this type of manifestation, which is why the Specialized Centers of the Public Defender Office of the State of São Paulo have sought to give support, guidance and legal assistance on such occasions.⁸



Image: act of protest of the families of the victims killed at the funk dance in Paraisópolis

⁸ Envelope the subject, check out:

<https://www.defensoria.sp.def.br/dpesp/Repositorio/31/Documents/Newsletter%20Newsletter%20-%20Nov.Dec.%202021-compressed.pdf>

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3.5 Criminalization of the "Mothers of May Independent Movement"

The period between 12th to 20th of May 2006 became known as the week of the "Crimes of May", when police officers and extermination groups murdered about 500 people, mostly young residents of peripheral neighborhoods in the metropolitan region of São Paulo and coast region named "baixada Santista".

After this episode, the mothers of the victims organized themselves in the "Mothers of May Independent Movement" and, since then, have been fighting for truth and justice, since there was no accountability of the agents involved.

In 2021 the "Mothers of May Independent Movement" sought the Public Defender's Office of the State of São Paulo requesting measures against its criminalization, especially related to the use and dissemination in judicial proceedings of a video containing speech of the Prosecutor of the State of São Paulo, Ana Maria Frigério Molinari, attentive to the dignity of activists of the "Mothers of May Independent Movement", as it implied that the group would be formed by mothers of drug dealers and that they would manage the trafficking points.

This video, in addition to being on the worldwide computer network, was widely disseminated and used in other lawsuits that police officers are defendants, criminalizing the "Mothers of May Independent Movement" and revictimizing the mothers, who are nothing more than victims of the State.

In view of this situation, together with the "Mothers of May Independent Movement" and the NGO Conectas Human Rights, the Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo sent a document to the Internal Affairs of the Public Prosecutor's Office of São Paulo and the National Council of Public Prosecutors asking for criminal and civil accountability of the Prosecutor Ana Maria Frigério Molinari, as well as retraction measures.

3.6 Street Carnival 2019 and 2022

In 2019, after reports of violence that occurred during the carnival period in São Paulo,

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in which several street cultural manifestations take place, the Public Defender Office of the State of São Paulo sent an official letter to public authorities recommending measures to safeguard the physical integrity of the people participating in such events. A meeting was held with the organizers of such cultural events, in order to listen to the complaints.⁹

A meeting was scheduled with the organizations of the party this year, since there is new resistance from the government to allow cultural demonstrations in streets in the carnival period, which was postponed to mid-April due to the pandemic period.¹⁰

3.7 Performance in emblematic individual cases

The work of the Public Defender's Office also takes place through lawsuits in which it provides assistance and legal guidance to the population.

It is worth mentioning the case of Stella Avallone Llama, who sought the Public Defender's Office after being morally and physically assaulted by the military police: she was arrested and referred to the police station, only because she was participating in a demonstration contrary to police violence. The case was reported to the Internal Affairs of the Military Police, but the preliminary investigation has been closed on the grounds that the facts would not have been properly proven. Thus, the Public Defender's Office began to assist the victim to ensure her moral and material compensation for the violations suffered, thus allowing her to maintain a minimum of dignity despite the State's inaction against the injury to her rights.

In addition to this case, the Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo has acted in other cases that people were injured by bombs of moral effect or rubber bullet in the context of political or cultural manifestations claiming compensation and reparation.¹¹

⁹ Envelope the subject <https://g1.globo.com/sp/sao-paulo/carnaval/2019/noticia/2019/03/08/defensoria-recomenda-que-pms-usem-megaphone-for-scattering-of-folhoes-no-carnaval.ghtml>

¹⁰ <https://spdiario.com.br/sp-blocos-de-carnaval-de-rua-anunciam-intencao-de-desfilar-em-abril/>

¹¹ Some of the cases can be found here: <https://ponte.org/a-pm-cega-a-justica-nao-ve-a-interminavel-fight-of-victims-of-weapons-less-lethal/>



4. Acting in the international human rights defense system

4.1 Déborah Fabri case - loss of vision in the context of manifestation

The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo filed an international complaint in 2019 because of the loss of vision of a student protester in 2016, Deborah Fabri, during a demonstration against former President Michel Temer, since the internal investigative bodies have closed the case with no proper investigation. In this complaint, forwarded to the Inter-American Commission on Human Rights by the Public Defender's Office and the NGO Article 19, Brazil was asked to adapt its conduct in manifestations to international standards, with the creation of federal legislation with basic guidelines, including mechanisms for accountability of human rights violating agents.

4.2 Charles Macedo case - unconventionality of the crime of contempt

The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo also filed a complaint forwarded to the Inter-American Commission on Human Rights regarding the unconventionality of the conviction of Charles Eduardo Macedo by the Brazilian judiciary for the crime of contempt. The Public Defender's Office requested the International Court to declare the incompatibility of the crime of contempt, provided for in Article 331 of the CP (Brazilian Criminal Law), in the face of Article 13 of the Inter-American Convention on Human Rights. It was induced that the maintenance of such a crime in the Brazilian legal system would represent an attack on freedom of expression, considering that it was used as a means of silencing unpopular ideas and opinions, repressing the essential critical debate in democratic societies.

4.3 Political Articulation

The Specialized Center for Citizenship and Human Rights of the Public Defender's Office of the State of São Paulo also monitors draft laws on the subject of demonstrations, in addition to actively participating in debates held in the legislature in favor of safeguarding the right to demonstration. In this sense, this Specialized Center took part in the public hearing promoted by the Commission on Human Rights and Minorities of the Chamber of Deputies, on the "Observatory



of universal periodic review - Right to demonstration and organization". Within this context, it was indicated the imperative of extreme caution in the amendment and use of the Anti-Terrorism Law (Law 13.260), under penalty of criminalizing legitimate popular and social movements, as well as the need to develop a code of conduct for the use of force during demonstrations, based on international human rights standards.¹²

In addition, it is worth highlighting the constant contact with social movements to protect human rights for joint articulations, among them the NGOs Article 19, Conectas, Sou da Paz, Omega Research Foundation and Witness, which have assisted the Public Defender Office of the State of São Paulo in different fronts in relation to the right of manifestation.

The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo also supported the realization of the Second Walk of Silence, which took place on April 31, date of the military coup of 1964. In addition to on-site monitoring, this Specialized Center also assisted in the articulation with the public agencies responsible for the space and structure, and disclosed the act on the Public Defender Office web page.¹³



**II CAMINHADA
DO SILÊNCIO**
PELAS VÍTIMAS DE VIOLÊNCIA DO ESTADO

DIA 31 DE MARÇO
PARA QUE NÃO SE ESQUEÇA, PARA
QUE NÃO CONTINUE ACONTECENDO

17H00 - PONTO DE ENCONTRO: PRAÇA DA
PAZ - PORTÃO 7 E 8

19H00 - INÍCIO DA CAMINHADA RUMO AO
MONUMENTO DOS MORTOS E
DESAPARECIDOS POLÍTICOS

19H30 - EVENTO DE ENCERRAMENTO DA
CAMINHADA - PORTÃO 10

PARQUE IBIRAPUERA - PORTÃO 7 E 8
AV. REPÚBLICA DO LÍBANO - VILA MARIANA, SÃO PAULO - SP

• USE MÁSCARA E ALCOOL EM GEL •

REALIZAÇÃO: **MOVIMENTO
VOZES DO SILÊNCIO**

APÓIO: **CIDADE DE
SÃO PAULO**

**DEFENSORIA PÚBLICA
DO ESTADO DE SÃO PAULO**

Núcleo Especializado de
**Cidadania e
Direitos Humanos**

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¹² Check: <https://www.anadep.org.br/wtk/pagina/materia?id=49649> Last accessed: 05/04/2022.

¹³ <https://www.facebook.com/130267380377139/posts/7208684625868677/?d=n>
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Image: photo of the act in front of the monument in memory of the political dead and disappeared people of the dictatorship period. Dissemination of the II Walk of Silence by victims of state violence.

5. DIFFICULTIES IN PROTECTING THE RIGHT TO FREEDOM OF EXPRESSION

Finally, it is necessary to highlight some difficulties faced in the promotion and protection of the right to freedom of expression in Brazil.

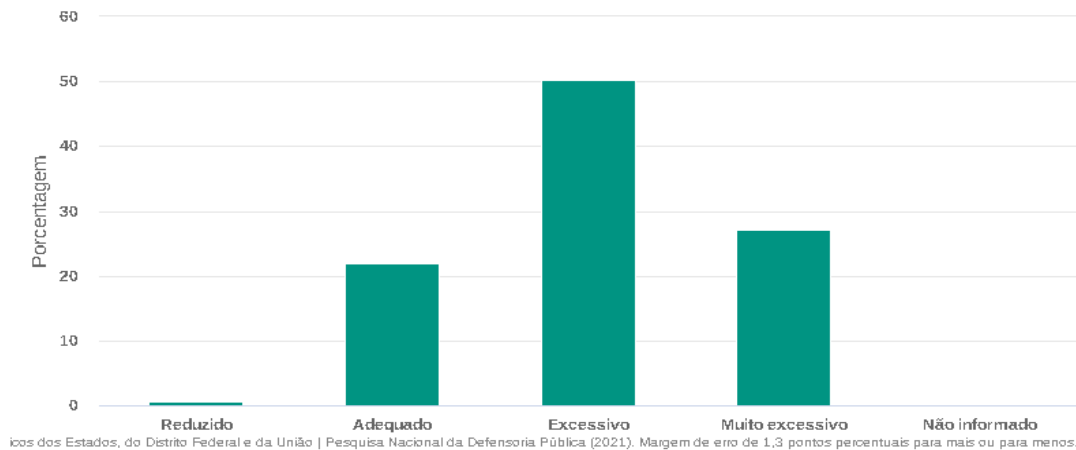
5.1 Structural difficulties:

First, the lack of public defenders directly affects the ability to act more directly and actively in the defense of the right to freedom of expression. As is well known, Brazil is a country marked by numerous social inequalities, and unfortunately the violation of human rights becomes a common place event. There is a huge demand for cases that require the attention of the Public Defender's Office, which range from police abuse in the use of the state's criminal prosecution instruments to the protection of the basic needs of the homeless population and the care of the economically in need population (which, by the way, has grown in recent years with the return of Brazil to the hunger map). Thus, the Public Defender Office (and this Specialized Center, consequently), experience a shortage of human resources that limits its scope of operation, so that they are forced to be restricted to those most emblematic cases or serious violation of human rights.

The following is a graph demonstrating the assessment made by public defenders at the national level on the adequacy of the workload, which clearly demonstrates the existence of an excess of work for the members of the institution:



**AVALIAÇÃO DOS(A) DEFENSORES(A) PÚBLICOS(A) QUANTO À ADEQUAÇÃO DO VOLUME DE
TRABALHO**



However, it should always be said that the Public Defender's Office has been taking initiatives to try to give priority and special attention to the theme of the defense of freedom of expression and its related rights. The Specialized Center for Citizenship and Human Rights of the Public Defender Office of the State of São Paulo has filed a proposal to the Superior Council of the Public Defender's Office of the State of São Paulo in order to address more resources and initiatives in favor of the protection of these rights.

In addition, it is still a challenge to follow spontaneous manifestations, especially the ones which take place in peripheral zones and that often do not come to the knowledge of the Public Defender Office.

5.2 Jurisdictional difficulties

There is a great obstacle to the investigation and accountability of situations of violation of freedom of expression, especially when the offense is made by a member of the state security forces, due to the Brazilian rules of jurisdiction themselves. In Brazil, the function of extensive police and maintenance of public security falls on the military police, an institution considered, according to the Constitution itself, "auxiliary force" of the Army. In this sense, military police officers are subject, as to their criminal liability, to the Military Jurisdiction.

Thus, both the investigation and the trial of military crimes end up being carried out



**DEFENSORIA PÚBLICA
DO ESTADO DE SÃO PAULO**



by officers of the armed forces themselves (in the State of São Paulo, the first instance of military jurisdiction is formed by judicial and permanent councils, which include in their framework 4 officers of the armed forces and 1 judge). In these circumstances, victims of police abuse are often taxed as "troublemakers" and "vandals", for misrepresenting peace and public order, so that, also for the sake of corporatism, many cases end with no investigation.

Finally, we welcome the coming of this rapporteurship to Brazil and make ourselves available for possible clarifications.

DAVI QUINTANILHA FAILDE DE AZEVEDO

Public Defender of the State of São Paulo
Specialized Center for Citizenship and Human Rights

FERNANDA PENTEADO BALERA

Public Defender of the State
Specialized Center for Citizenship and Human Rights

LETICIA MARQUEZ DE AVELAR

Public Defender of the State
Specialized Center for Citizenship and Human Rights