



Rio de Janeiro, 12 August 2021

**Supplementary Report of Civil Society "MNDH/RJ" for the 21st Session on the Initial Reports of the State Party Brazil**

**To The Honorable UN Committee on Enforced Disappearances**

Re: Situation of the Forced Disappearance of 11 Youths in Acari-RJ in 1990

**I. Purpose of the Report**

The Submitter's representative comes, respectfully, before the Committee on Enforced Disappearances, to present the following Supplementary Report to present the Situation of Enforced Disappearance of 11 Youth in Community of Rio de Janeiro in 1990 to in order to inform the Committee for the 21st Session.

**II. Submitter**

**MOVIMENTO NACIONAL DE DIREITOS HUMANOS - MNDH**, legal person, under CNPJ nº 32.902.132/0001-03, domiciled at SEPN, Quadra 506, Conjunto C, nº 16, Loja nº 07, Semi Enterrado, Asa Norte, Brasília, DF, CEP 70740-504, under the representation of civil society in the state of Rio de Janeiro, through its undersigned lawyer, with an office at Avenida Beira Mar, nº 406, Grupo nº 1.205, Centro, Rio de Janeiro, RJ, CEP 20021-060 comes before this Committee, to present a Supplementary Report, on the following facts:

**III. Victims**

Viviane Rocha (13 years old at the time of the facts); Cristiane Souza Leite (16 years old at the time of the facts); Wudson de Souza (17 years old at the time of the facts); Wallace do Nascimento; Antônio Carlos da Silva (17 years old at the time of the facts); Luiz Henrique Euzébio (17 years old at the time of the facts); Edson de Souza (17 years old at the time of the facts); Rosana Lima de Souza; Moisés dos Santos Cruz; Luiz Carlos Vasconcelos de Deus; Edio do Nascimento.

**IV. Information on the Situation of Enforced Disappearance of the 11 Youth**

Considering the very high numbers of missing people, especially children and adolescents presented in the previous Report, which is recalled here:

“According to the secretary-general of the National Council of Justice, Valter Shuenquener, in a debate organized by the Observatory for Human Rights of the Judiciary on the theme of missing children, between 2017 and 2018 there were more than 856,000 records of missing persons. According to the Anuário de Segurança Pública, 80,000 people disappeared in 2019, with an estimated 40% of them being children and adolescents.<sup>1</sup>

According to data from SOS Children and Adolescents, Foundation for Childhood and Adolescence (FIA), in Rio de Janeiro, there are 578 missing children, 72 under 18 years old, 392 boys and 186 girls.<sup>2</sup>”

The Submitter points the case of the disappearance of 11 young people in the Acari community, in 1990, which to date has not been resolved.

The Massacre of Acari took place on July 26, 1990, in which 11 people, most of them living in the Acari favela, were spending a few days on a farm in Magé, Baixada Fluminense. Around midnight on July 26, a group of armed men, claiming to be police officers, entered the house and asked if there was jewelry and/or money on the property. There was not. All the people who were in the house were taken to an uncertain destination. The men were placed in a kombi, owned by one of the victims Hédio Nascimento, and the women in a fiat Uno owned by Mr. Ary Duarte. None of them was ever seen again. The Kombi and Fiat were found, days later, burned. The van was stained with blood. However, the expertise remained inconclusive, not being able to determine if the blood was from some of the victims.

Suspicion falls on extermination groups operating in the region, including several witnesses pointing out that military police officers would participate in these groups and had already carried out extortion against some of the victims.

The investigations led the case to be known as the “Massacre of Acari”. The struggle of their mothers founded a movement of relatives and victims of state violence, called “Mães de Acari” (Mothers of Acari). The Mothers of Acari are a historical reference and inspiration of the fight, however, most of them died without ever finding an answer to what happened to their children.

The Brazilian State has never been able to hold the culprits responsible or identify the whereabouts of the victims. The omission of the State even led to the death of one of the leaders of the movement, the mother of Luiz Henrique da Silva Euzébio, Edméia da Silva Euzébio, who was murdered on January 15, 1993, in the daylight (5:30 pm) with two shots at the head at “Praça Onze” metro station. She had been, shortly before, at the Frei Caneca Penitentiary Complex, in the center of RJ, where she had been

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<sup>1</sup> Disponível em [Mães em busca de crianças desaparecidas falam sobre dificuldades na investigação dos crimes - Portal CNJ](#)

<sup>2</sup> Disponível em: [Sistema Criança Desaparecida - Consulta Pública \(soscriancasdesaparecidas.rj.gov.br\)](#)

attempting to obtain information about the “Massacre of Acari”. At the time, Sheila da Conceição was also murdered, probably for having witnessed the crime.

Those accused of the deaths of Edméia and Sheila, several of whom were also suspected of participating in the Vigário Geral massacre, were not even tried, nor were they punished. On January 15, 2018, Amnesty International released a document remembering the 25 years of impunity for Edméia's death in which it states:

“The proceedings related to Edméia's murder have been dragged through the criminal justice system since 1998 without any conclusive answer. The complaint against the possible killers - which include a high military police officer and a former deputy from Rio de Janeiro - was only received by the judiciary in 2011. After a long delay, in 2014, a judge ruled, during the pretrial phase of the case, that seven men would be accused of her murder and would be brought before a popular jury for murder. The accused appealed to a higher court, but no decision was made on this appeal. Twenty-five years after Edméia's death, no one has been brought to trial.”<sup>3</sup> [our translation]

The murders of Edméia and Sheila are added to the disappearance of the “11 de Acari” and there are so many other crimes of the same nature committed uninterruptedly by State agents and/or people related to them, without the authorities being able to end the cycle of violence legitimized by the impunity. As stated by Jurema Werneck, director of Amnesty International in Brazil:

“The sense of impunity surrounding police homicide cases fuels the cycle of police violence in Rio de Janeiro. This sends a message that the authorities tolerate illegalities being committed by the police. Police officers who commit extrajudicial executions do so with the certainty that they will never be held responsible. As a consequence of the State's failure to guarantee justice, the number of homicides remains high and is only increasing.”<sup>4</sup> [our translation]

Due to the fight of the victims' mothers, the case had great repercussions. However, this did not prevent the Brazilian state from being completely incapable of providing a satisfactory response. The Police Investigation Procedure went through numerous Police Stations, changing with that the status of registration. It had the numbers 141/90 — 69+ Police Station, 075/90 — Special Commission, 007/98 Homicide Department of Baixada. Among all the suspects named, only the taxi driver who took part of the victims to the farm was indicted and prosecuted, but the evidence against

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<sup>3</sup> Disponível em: <https://anistia.org.br/noticias/brasil-vinte-e-cinco-anos-de-impunidade-alimentam-mortes-cometidas-pela-policia-rio-de-janeiro/>

<sup>4</sup> Disponível em: <https://anistia.org.br/noticias/brasil-vinte-e-cinco-anos-de-impunidade-alimentam-mortes-cometidas-pela-policia-rio-de-janeiro/>



him was extremely fragile and was basically based on contradictions in his testimony and, therefore, there was no conviction.

It can be inferred from the reports made in various investigations that a large part of the investigative efforts focused on the location of the victims' bodies. In fact, several steps were taken in this regard, however, the failures in these incursions — narrated below — demonstrate why the location would be unlikely.

The Kombi that would have transported most of the victims was found on the road Bongaba, in Piabeta, covered in blood. As already said, the expertise was inconclusive, unable to identify whether the blood was from any of the victims. In 1991, a report from the Homicide Service of the Baixada already indicates:

“considering the mechanics of the crime(...) is the main characteristic of death squads, the kombi used in the kidnapping was found only 11.6 km from the crime scene and in an area considered known to hide bodies, for the concealment of 11 corpses it would be necessary for the group to have a good knowledge of the area or even a farm (property) to hide their victims, an investigation into the extermination groups operating in Mage, particularly in Suruí, is naturally necessary.” [our translation]

Various media reports and studies dealt with the death squads operating in the region at the time. However, no move towards locating any suspect property appears in the police investigation procedures. In fact, since 1995, the newspapers had already reported the possible involvement of “Peninha”, but it was not verified if he had any nearby property. The investigations into the suspect's properties took place in a way and under circumstances that reinforce the institutional labyrinth in which the families were involved:

a) in 1999, an anonymous report indicated that the bodies were at the farm owned by Peninha near Bongaba road. The first inspection at the site was only carried out in 2002 — 12 years after the crime; 07 years after suspicion of Peninha's participation and 03 years after the anonymous denunciation. There was, undoubtedly, enough time for the possible disappearance of the remains and removal of all traces.

b) in January 2006, Marilene Lima de Souza, mother of victim Rosana de Souza, gave statements to both the Police and the Secretariat of Human Rights of the State of Rio de Janeiro, claiming to have received information from a detainee that the bodies were at the farm of the Peninha in Bongaba. In light of his testimony, new searches were carried out at the farm. On June 26, 2006, and apparently human bone was found, but it was never identified. However, in a second investigation a surprising discovery was made:



“on June 29, 2006, with the collaboration of a private company, a ground sonar device was used by technicians who detected changes in the soil layers, allowing us to state that, in 11 points the ground had been rummaged in past times, at a depth that varied between 0.50 and 1.50 m, these being the points where some excavation could be done.

The third time, on July 6, 2006, we returned with a crew from CBMERJ and a team from ICE, both from Magé, in order to dig in the previously marked points and, if necessary, find a body. Unfortunately, no bodies were found...”[our translation]

Although, 16 years later it would be at least unlikely that 11 bodies would still remain buried in a shallow grave at the farm, especially considering a crime of great repercussion like this. However, it is obvious that 11 soil points have been disturbed, corresponding, therefore, to the exact number of victims, which brings evidence that, if the State had acted more diligently, other evidence or proof of the presence of the victims could have appeared. In the prosecution's report, the numerous constructions and renovations carried out on the farm over time stand out. These works, could mask or make it difficult to identify evidence of the presence of the victims' bodies, as even a swimming pool had been made on the farm.

c) In September 2006, Mr. Ulisses who would have indicated to Marilene the farm of Peninha as the place where the bodies would be, was located. When questioned, he gave detailed indications of several of those involved in the Massacre of Acari and also in the Peninha murder. Taken to identify the farm, he brought new information: the place where the bodies would be was not that farm already visited by the police on two occasions, they would have been taken to another farm, also owned by Peninha, in the same region of Bongaba.

The Brazilian Civil Code does not, as a rule, determine a fixed period for acknowledging the death of missing persons, the only exception being those who have disappeared in war, who will be recognized as dead if they do not return within two years. In other situations, it can be recognized when it is extremely likely that the death of someone who was in danger of life (art. 7, item II) or by a declaration of absence recognized by a court decision in which it is proven that strenuous searches were made for the localization.

Some victims' death certificates were only obtained 20 years after the disappearance. They were obtained through a court decision and therefore there is different information about place and cause of death. In the certificate of Luiz Carlos Vasconcelos de Deus there is a lack of knowledge about the reason and the place. In the certificate of Moisés do Santos Cruz it is stated as the place of death Acari and that it was presumed death. Although, in the Certificates of Luiz Henrique da Silva Euzébio, Rosana de Souza Santos Viviane Rocha da Silva expressly listed as place of death “massacre of acari.” These certificates obtained through judicial recognition are,



therefore, important documents in which the Brazilian State recognizes the death of the victims in the massacre. On the other hand, the other victims until this date do not have a death certification.

A part of the family members of the Massacre of Acari were represented by the Institute of Human Rights Defenders in an Action for the Reparation of Material and Moral Damages, less than five years after obtaining the death certificates of their relatives.

However, the Rio de Janeiro State Attorney's Office requested the action to be dismissed, due to the prescription of the right since the proceedings had to have been filed five years after the death that allegedly took place on July 26, 1990. The court's decision also follows the understanding that the right to claim the reparation ended in 1995.

With such pronouncements, not only does the Brazilian State once again disregard the continued aspect of forced disappearance, but it also demonstrates the refusal to accept responsibility for the harm that it has inflicted to all family members over the years. In 1995, the year of the alleged prescription, the investigation was open and there was no official document proving the deaths. These were obtained between 2010 and 2011 and presented by the plaintiffs in the reparation proceedings.

Considering the aforementioned negligence by the Brazilian State, and the human rights violations committed, the families of the massacre of Acari filed a complaint on the case with the OAS system in 2006, after a long period of waiting, the organization gave its ruling in July 2021 in a Merits Report recognizing the responsibility of the Brazilian State for human rights violations as established in inter-American instruments.

Therefore, last July, it turned 31 years of the Massacre of Acari, which remains to date without a definitive resolution, demonstrating the neglect, abandonment of the State and, in particular, the failure to comply with its obligations under the Convention on Disappearance Forced.

Finally, we mention some news that address the Massacre of Acari in the media in different years:



([Mães de Acari inspiram luta por justiça 30 anos após chacina - Jornal O Globo](#) - 2020)



(['Enterrei dois filhos, ainda tenho esperança de enterrar meu caçula' - BBC News Brasil](#)-2015)



The screenshot shows the website ISTOÉ with the article 'Chacina de Acari faz 20 anos sem punição a culpados' highlighted. The article is dated 2010 and is part of a series of reports. The website header includes the ISTOÉ logo, the edition number 'EDIÇÃO Nº 2690 06/08', and a search icon. The main navigation menu includes 'HOME', 'ÚLTIMAS', 'LIVES', 'CORONAVÍRUS', 'REVISTA', 'BRASIL', 'ECONOMIA', 'MUNDO', 'COLUNAS', 'ESPORTES', 'GENTE', and 'SAÚDE DA MULHER'. The article title is 'Chacina de Acari faz 20 anos sem punição a culpados' and the author is 'ASEMANA'. The article text is partially visible, mentioning 'Seca histórica deve afetar novamente exportação argentina de grãos no próximo ano'.

([Chacina de Acari faz 20 anos sem punição a culpados - ISTOÉ Independente \(istoe.com.br\)](http://istoe.com.br) - 2010)

## V. Legal Aspects

Regarding the legal framework, the mentioned in the previous report is reinforced, which lists the commitments of the Brazilian State with the ratification of the International Convention for the Protection of All Persons against Enforced Disappearance and other instruments that provide for human rights that have been violated, and continue to be violated to date, in relation to the case of the Mothers of Acari and other various victims which prove the Brazilian State's failure to comply with its obligations under this Committee.

## VI. Disclosure of the Information Submitted

Since the Massacre of Acari in 1990 is a case of national knowledge, with wide dissemination and repercussion in the media, it is considered unnecessary to maintain the anonymity of the victims.


## VII. Conclusion

The situation of the Massacre of Acari, which involves the disappearance of 11 youths in 1990 is a clear violation of human rights as established by international human rights instruments.

In this sense, the Submitter seeks, through this Supplementary Report, to inform about the situation narrated in order to elucidate the discussion at the 21st Session of the Committee on Enforced Disappearances in relation to the Initial Reports of the Brazilian State, in order to:



- A. Be the Brazilian State urged to express its opinion on the presented cases, based on the official documents of the Committee on Enforced Disappearance at the 21st Session.
- B. Solicit online participation and oral briefings by the victim's families in meetings and sessions involving the monitoring of the Brazilian State in reference to the 21st Session of the Committee on Forced Disappearance to discuss the Massacre of Acari.



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