

Brazil Senate's Secret Session Called Unconstitutional

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This Wednesday, September 12, in a session carried out behind closed doors, Brazilian senators absolved - by 40 votes against 35 - the president of the house, Mr. Renan Calheiros, accused of unethical behavior by the Senate Ethics Commission, which had also recommended his impeachment.

According to London-based human rights organization Article 19 the Brazilian senators' secret session for voting of senator's impeachment endangers credibility of Brazilian democratic institutions.

"Article 19 deeply regrets this episode, which stands in sharp contrast with the government's professed commitment to transparency and open government," said Dr. Agnes Callamard, Executive Director of Article 19. And she went on:

"Freedom of information is a cornerstone right, essential to democratic societies. Access to information constitutes also an international obligation assumed by the Brazilian government under international law. Urgent measures should be adopted by the Brazilian authorities to ensure that freedom of information becomes an institutional policy actively promoted and defended by all public bodies"

The Brazilian Constitution in its article 55 requires secrecy only for the ballot in impeachment cases, not for the entire session that debates impeachment. It is the Statute of the Senate that sets out the secrecy of these sessions.

Although secret ballots are not uncommon, Article 19 says that it strongly condemns the secrecy of the session that took place in the Brazilian.

According to them, this has violated not only international norms on openness and transparency, but also Brazil's own Constitution: Article 5 of the 1988 Constitution ensures the right of access to public information and Article 37 guarantees the principle of publicity applicable to every government act.

For Article 19, the decision to hold the session behind closed doors served only to create much unrest and an environment of suspicion.

Even the members of the other house of congress - the Câmara dos Deputados - were forbidden from entering the session. Thirteen Deputados filed an injunction before the Supreme Court and got authorization to be present at the session. They were barred at the door by security staff and were only allowed in after much discussion and some violence.

The Supreme Court provisional decision in the case was silent in relation to the constitutionality of the Senate's Statute article on closed sessions as regards the right of access to public information. The decision's justification was one of equality between the two houses. The final decision in the lawsuit is still pending and should rule on the illegality, or not, of the Statute.

Article 19 is a human rights organization that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.