

CONNECTAS

Prison Situation in Espírito Santo (Brazilian state)

UN High Commissioner for Human Rights visits Brazil and hears about the grave situation of the prison system in the state

In early November, the UN High Commissioner for Human Rights, Navi Pillay, paid an official visit to Brazil and made time in her agenda to meet with local civil society organizations. Together with Justiça Global and the Human Rights Center of Serra (Espírito Santo), Conectas participated in this meeting, on November 13, and took advantage of the occasion to convey to the High Commissioner the grave situation of the prison system in Espírito Santo.

This system is the scene of death, murder, dismemberment, disease, overcrowding, torture and abuse, all well documented and widely known. Pillay was alarmed by the violence of these human rights violations and she pledged to take up the case during her mandate, and also to convey to the Brazilian authorities the need for action.

Call for federal intervention

Additionally, the same day, the same organizations met with Brazil's Attorney General in Brasília to address this same issue and reiterate the need for swift steps to be taken to avoid further deaths and torture. On the occasion, they presented photographs and a video of the Vila Velha Police Station (holding more than 250 men, while its capacity was for just 16).

Since May, the Attorney General has been analyzing a request for federal intervention in the state of Espírito Santo, filed by the National Council on Criminal and Prison Policy (CNPCCP). The case deals with the terrible human rights violations in the state prison system and the unlawful internment of young offenders. Since the last visit of the CNPCCP, in May, the National Justice Council (CNJ), the National Council for the Rights of Children and Adolescents (CONANDA) and the Council for the Defense of the Rights of the Human Person (CDDPH) have visited Espírito Santo and unanimously agreed that the situation is inadmissible.

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IX International Human Rights Colloquium debates initiatives in the international human rights protection system

From November 8-14, the ninth edition of the International Human Rights Colloquium was staged in São Paulo under the title "An Appraisal of the Human Rights System from a Southern Perspective: Common Strategies and Proposals for Reform". The conference, held annually by Conectas Human Rights, was attended by 34 participants, in addition to speakers, observers, students and volunteers.

This year, the profile of the selected participants – 20 women and 14 men (click here to see the complete list), from 22 different countries – was distinctive: only people who had already participated in one of the previous editions of the Colloquia were invited to apply for attendance. This is because, in addition to debating and sharing experiences about the UN as an instrument for delivering human rights, the attendees also participated in an appraisal of the Colloquium itself and its impact on the activists and NGOs involved over these nine years that the event has been taking place.

[Click here to see more about this event](#)

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Prison System of Espírito Santo State Worsens by the Day

Delay in examining petition for federal intervention exacerbates human rights violations in the detention centers of Espírito Santo state. Conectas requests that the petition be reviewed immediately or, in the alternative, that criminal law enforcement proceedings underway in the region be removed to federal court

In its next visit to Espírito Santo state, which should take place soon, the National Council of Justice (CNJ) will encounter a situation even worse than that found in previous visits: a prison system plagued by overcrowding, individuals confined in metal containers and cells, a lack of hygiene, deaths, dismemberment, torture, abuse and a lack of judicial and administrative control over the situation. In sum, the Espírito Santo state government, after the work of a task force in May, has completely failed to honor its commitment to improve conditions in state detention centers.

There are measures that the Brazilian federal government, which is accountable in the international sphere, could adopt to end these human rights violations. One option is federal intervention: in May, the National Council for Criminal and Penitentiary Policy (CNPCCP) made such a request to the Federal Attorney General. Although Espírito Santo state has already fully demonstrated its inability to resolve the situation and put an end to these human rights violations, the Federal Attorney General has not yet made a decision as to whether he will petition the Brazilian Supreme Court for permission to intervene in the state.

Various organizations, such as CONANDA (the National Council for Children and Adolescents) and CDDPH (Council for the Defense of Human Rights) have visited Espírito Santo state and have confirmed the gravity and persistence of the situation. Conectas has joined these organizations and today sent a

communication to the Federal Attorney General, Dr. Roberto Monteiro Gurgel Santos, requesting that the petition for federal intervention be reviewed immediately. In light of the Federal Attorney General's discretion not to forward the federal intervention petition to the Brazilian Supreme Court, Conectas has requested, in the alternative, that the cases before the Criminal Court of Viana, which has judicial authority over the use of metallic cells and over the CASCUVI prison, site of the most egregious human rights violations in the state, be removed to federal court pursuant to Article 109, Section 5 of the Brazilian Federal Constitution.



*Novo Horizonte Jail –
Metalic cells – April 2009*

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Conectas participates in the 12th Session of the UN Human Rights Council

In conjunction with several organizations, Conectas addressed the rights of indigenous peoples, access to HIV/AIDS medications and the human rights violations in Honduras, among other subjects

The 12th session of the UN Human Rights Council (HRC), which began in Geneva on September 14th, will continue through October 2nd. "This session touched upon several topics in which we both act and encourage the engagement of other organizations, especially those from other countries of the Global South," says Camila Asano, Conectas' representative who went to Geneva with the support of the Democracy Coalition Project (DCP).

In conjunction with organizations of indigenous and human rights – such as the Articulation of Indigenous Populations of Brazil (APIB), the Association of the Indigenous Land of Xingu (ATIX), the Indigenous Missionary Council (CIMI), the Coordination of Indigenous Organizations of the Brazilian Amazon (COIAB), the Socio-environmental Institute (ISA) and Global Justice – Conectas discussed the protection of the rights of indigenous peoples. The main topics addressed include the right to consultation and the need for establishing participation mechanisms for indigenous peoples in governmental spheres. This discussion occurred following the UN Special Rapporteur for the Rights of Indigenous Peoples James Anaya's presentation of the report on his visit to Brazil, which took place in August 2008. [Click here to see the statement.](#)

Conectas, together with the Center for Legal and Social Studies (CELS) and other NGOs from various countries, also lobbied for the HRC to address the human rights violations which occurred in Honduras following the military coup d'état. [Click here to see this statement .](#) In the same session, Chile and Uruguay's final Universal Periodic Review reports were also adopted. Conectas supported the participation of organizations in these countries with this process.

Finally, the HRC selected the new UN Independent Expert for Sudan, Mr. Mohamed Othman. Conectas supported the candidacy of Juan Mendez, who is president of the International Center for Transitional Justice (ICTJ) and was among the finalists for the position. His name is still in the public list for future UN mandate holders.

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(THE GUARDIAN) - <http://www.guardian.co.uk/commentisfree/cifamerica/2009/aug/20/brazil-human-rights>

Brazil's riposte to interventionism

Increasingly, human rights organisations in Brazil are challenging pre-packaged doctrines of western liberal values

(by Conor Foley)

Shortly before his death in Baghdad six years ago, the Brazilian UN chief [Sergio Vieira de Mello](#) gave an interview in which he warned that the US occupation forces were [trampling on Iraq's dignity](#) and wounding its national pride. "Who would like to see his country occupied?" he asked. "I would not like to see foreign tanks in Copacabana."

[Vieira de Mello's career](#) had taken him through some of the world's worst conflict zones, grappling with the dilemma of how the international community should respond to grave human rights violations and crimes against humanity. His own family had suffered under Brazil's military dictatorship and – like most progressives of his generation – he did not accept the view that what governments did to their own people was a prerogative of national sovereignty. International solidarity trumped the doctrine of "non-interference in a state's internal affairs", which is enshrined in article 2 of the UN charter, but has been chipped away at by a variety of human rights treaties in recent decades.

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One achievement of the former British premier Tony Blair may have been his impact on this debate through attempts to hitch it to his tawdry justifications for the illegal [invasion of Iraq](#). Although Blair's own arguments did not stand up to much serious scrutiny he seems to have convinced a surprising large number of people that the doctrine of humanitarian intervention is just a new name for old-fashioned imperialism. Alongside the basically rightwing position that "we should not concern ourselves with what one group of foreigners do to another" is an increasingly fashionable leftist view that only criticises human rights violations when these can be laid at the door of western governments.

Médicos Sem Fronteiras (MSF) Brasil, and Conectas, a Sao Paulo-based human rights organisation, provide an eloquent riposte to such intellectual myopia. [MSF](#) has been working in Brazil since 1991, providing medical services in the Amazon as well as the violent favelas of Rio de Janeiro. For the last two years, it has been providing emergency and mental health services in [Complexo do Alemão](#), where residents have been trapped in the middle of all-out gun battles between police and criminal gangs, fitting most established definitions of what constitutes a war zone.

I first met MSF Brasil's director Simone Rocha, when we were both working in the northern Afghan town of Mazar-i-Sharif. She has been deployed in a dozen countries, for different national sections, but the creation of MSF Brasil is a new and more ambitious project. It is now raising funds in Brazil and sending Brazilian doctors into 35 countries so far, like Darfur, Sri Lanka and the Democratic Republic of the Congo, where their medical experiences of providing assistance in remote, impoverished and often violent places is sorely-needed.

MSF combines its assistance with advocacy. As Rocha notes:

One of our most important activities is the collaboration we have established with Brazilian civil society in the fight for universal access to medicines. We have linked this to our activities in other countries of the south such as India, Thailand and China. MSF has provided both technical and legal support to defend doctors in these countries against monopolistic practices on essential medicines.

[Conectas](#) has pursued a similar strategy of defending human rights in Brazil, while locating these within a conception of Brazil's rightful role on the planet. During President Lula's recent visit to the UN human rights council it called on his government "to review and resolve any inconsistencies in the positions it has adopted in regard to the severe and persistent cases of abuses and violations of human rights in specific countries". Conectas criticised Brazil's quiescence towards calls for a war crimes investigation in Sri Lanka earlier in the year and its silence over violations in China and North Korea. Its legal director, Oscar Vilhena Vieira, argues that Brazil is constitutionally required to promote human rights in its foreign policy.

Conectas seeks to strengthen respect for human rights and the rule of law in the global south through strategic litigation and south-south co-operation. It helped to shut down the notorious Complexo Tatuapé, a brutal and overcrowded young offenders institution in 2007, and its reports on the shortcomings of the Brazilian criminal justice system have become required reading for those interested in penal reform here.

Conectas has coupled this work in Brazil with what it describes as a programme to build "the influence and impact of a new generation of Global South human rights defenders". Through sharing information between human rights practitioners and a colloquium of students and academics, it has helped to create a vibrant network for the exchange of ideas and campaigning actions. Much of its work is focused on the UN, although it also lobbies on the human rights and environmental debates surrounding the World Trade Organisation (WTO), where Brazil plays an influential role.

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Conectas and MSF Brasil are part of a trend towards an increasingly assertive and internationalist civil society in the developing world. Through their links with similar organisations in Asia and Africa, they are helping to challenge the dominant discourse on human rights, which often regards a set of pre-packaged western liberal values as being ready for export.

But in universalising the debate about issues such as UN reform and the "responsibility to protect" doctrine, they are also helping to build a broader global understanding of them. It is the countries of the south who have borne the brunt of the humanitarian crises, conflicts and large-scale human rights violations of recent years, yet those in the north that have responsible for framing the international responses. It is fairly obvious whose voice has been missing in the debate up to now.

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Brazil fails to obey OAS orders on prison

Organizations claim the country is still not complying with Inter-American Commission on Human Rights measures concerning the Guarujá Detention Center, heightening its liability on the international stage

In spite of the closure of the Guarujá Detention Center, the severe human rights violations that led the Inter-American Human Rights Commission (IACHR)* to submit a series of recommendations to the Brazilian State on the situation facing these detainees still persist. Overcrowding, lack of basic hygiene and safety conditions and the incarceration of adolescents, among other things, are being repeated at the Vicente de Carvalho Police Station, according to evidence gathered during a visit to the site made by organizations earlier this month.

In fact, the situation has not improved at all. Following the closure, inmates from the Guarujá Detention Center were jailed at the 1st District Police Station of Vicente de Carvalho, a smaller unit designed to hold fewer detainees, who are kept in worse and even more inadequate conditions. Responding to a request from the IACHR, Conectas Human Rights, the Pro Bono Institute and the Community Prison Council of Guarujá and Vicente de Carvalho, the organizations that filed the original charges at the inter-American system, visited the jail and discovered that the conditions are getting worse by the day.

Despite an order from the IACHR expressly forbidding such actions, adolescents continue to be detained in the same unit as adults and the maximum period of five days, set by Brazil's own Child and Adolescent Statute (ECA), is frequently not observed. Overcrowding and the lack of any medical attention are also breaches of the IACHR's precautionary measures.

The IACHR has already admitted the "Case of Imprisoned Persons at the Guarujá Detention Center" to analyze the human rights violations committed by Brazil in this instance. Conectas Human Rights, the Pro Bono Institute and the Community Prison Council of Guarujá and Vicente de Carvalho submitted a new petition to the commission last week, with information detailing the breaches of its orders.

The continuity of these violations for the people who are now under international jurisdiction demonstrates the indifference of the Brazilian State to human rights and to the decisions of international organizations, and it may lead to another condemnation of Brazil within the Organization of American States (OAS).

** The Inter-American Commission on Human Rights (IACHR), based in Washington, is an autonomous body of the Organization of American States (OAS) that is responsible for receiving and processing allegations of violations of the American Convention on Human Rights. Brazil is a signatory of this convention and recognizes the jurisdiction of the Inter-American Court of Human Rights, to which the case will be sent if it is not settled within the commission.*

Pro Bono Jr.

In partnership with the FGV Law School, IPB launches new initiative targeting undergraduates

September 3 saw the launch of a new Pro Bono Institute (IPB) initiative: Pro Bono Jr. Organized in partnership with the Getulio Vargas Foundation (FGV) Law School and focused on first year undergraduate students from the school, this project aims to promote social responsibility in the field for future lawyers, from their very first years of training.



*Marcos Fuchs, Executive Director of IPB,
at the launch of the Pro Bono Jr.*

The proposal, basically, is to take advantage of the IPB's existing structure to mediate the contact between civil society organizations that require legal assistance and lawyers interested in doing volunteer work, and also to allow students from the law school to lend their assistance. Therefore, the lawyers overseeing the cases assigned by the IPB may enlist the help of a student who, in addition to being able to follow cases with a social dimension more closely, can also enhance their training with experience handling procedures related to the actual practice of law.

According to Marcos Fuchs, Executive Director of the IPB, "Pro Bono Jr. is one of the best ways to promote the *pro bono* cause. If encouraged from early on to give free legal advice, lawyers will enter the market already influenced by these principles and will not stop providing it."

Brazilian Supreme Court declares the prohibition on the importation of used tires constitutional

Organization admitted as "amici curiae" celebrate the outcome of the suit

On last June 24th, the Brazilian Supreme Federal Court finished the trial of the writ ADPF 101, that spoke about the importation of used tires. By eight to one votes, the plenary declared the constitutionality of the rules in vigor in the country that forbid this import, recognized by the Reporter Minister, Carmen Lúcia.

The motion was proposed by the President of the Republic, Luiz Inácio Lula da Silva, and had two main goals: declare the validation of the laws that already forbid the importation of used tires; and the chasing of different court rules on the lower courts that allowed the importation of used tires. The case got relevance after Brazil was called on a panel of the World Trade Organization (OMC) by the European Community, questioning the

prohibition of the importation of used tires. The ruling of the panel was in favor of Brazil, considering just the country prohibition on the economic activity harmful to the Environment, as long as the prohibition was kept in all levels of the country. To address this ruling, the President filled the ADPF, hoping to end rulings allowing the importation of used tires. The STF's ruling forbids the importation of any tire, inclusive those coming from Southern American countries.

In March, on the session that begun the trial, representing Conectas Human Rights, Global Justice and "Associação de Proteção ao Meio Ambiente de Cianorte – APROMAC", admitted as "amici curiae" ([click here to see the organization's memorial](#) - in Portuguese), Professor Doctor Oscar Vilhena Vieira, Director of Conectas, on his speech on the defense of the motion, highlighted that the onus for the European developmentalist model, damaging to the Environment for centuries, can not be accepted in countries under development, such as Brazil. Also affirmed that the Constitution is clear when stating that the prevalence of the environment over the economic activity, being even "innovative when stating about the essentiality of the protection of the environment, as an intergenerational pact, so that the future generations of Brazil can enjoy the same rights as the one's granted to us nowadays".

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In support of the unconstitutionality of the patents pipeline

Conectas and GAPA-SP admitted to participate at the Supreme Court trial

On June 18th, 2009, the organizations Conectas Human Rights and GAPA-SP spoke as "amici curiae" on the writ ADI 4234, in course on the Supreme Federal Court.

The ADI 4234 was proposed by the General Attorney of the Republic requesting the declaration of unconstitutionality of the articles 230 and 231 of the Federal Law nº 9.279/96 that states patents of revalidation, know as patents pipeline. On the motion, enforces that "the knowledge that is already of public domain integrates the common property of society (...). What led the legislator, towards an winding road, to promote a king of expropriation of a common property of the people without any constitutional background".

The mechanism pipeline permitted patents on technological fields not recognizes until then on the country, allowing the patent protection of pharmaceutical products and foods, among others. All around 1.182 patents were filled through the pipeline mechanism; among them are important medication on the treatment of HIV/AIDS and leukemia for example.

The organizations defend the motion and agree with the unconstitutionality of the articles 230 and 231 of the Law of Industrial Property due to the pipeline mechanism not following the requirements imposed by the Federal Constitution of 1988 itself, on what refers to promotion of the public interest and the national technical development, as stated on constitutional article 5th, XXIX. Believe that "the concession of patents pipeline violate the principle of the lack of possibility of changing the competence of the public domain, affronting the acquired right of the collectivity. In fact, a knowledge, after entering the public domain, cannot be withdrawn. The entering on the public domain makes the property common to everyone and the collectivity acquires the right to keep it available,

forbidding its individual appropriation”.

To Eloisa Machado, lawyer at Conectas, “it is unacceptable that an unconstitutional institute may bring such a negative impact to the access to medication. In fact, many essential medications are patented by the pipeline mechanism and, therefore, present extremely high cost to the Government, when they should be held in public domain”.

The Minister Carmen Lucia, reporter of the ADI 4234, affirmed that the case, due to its importance, will be brought directly to trial of the plenary. If the rulling is for precedence, the decision will affect more than 1.100 requests of patents, in majority referent to foods and medications.

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Crimes of May 2006 in São Paulo

The lack of investigation on the homicides of the period, known as the “bloody week”, may lead to the liability of the state of São Paulo and Brazil

On May, 12, 2009, exactly three years after the beginning of the period known as the “bloody week”, the organization Conectas Human Rights and the families of five of the victims of the Park Bristol’s massacre presented a complaint against the estate of São Paulo and Brazil for violations of human rights before the OAS.

The deficiencies on the investigation of the police held by the estate of São Paulo prevented the authors of a killing that killed three young people and harmed other two at Park Bristol in May 2006 from being found and held responsible. Six months after, one of the survivors was the victim of another episode of summary execution that was also filed.

Once the Justice of the estate of São Paulo showed itself incapable of investigating properly this case, Conectas and the families send, simultaneously, a petition to the General Attorney of the Republic for him to request the “federalization” of the investigations. Besides that, they also presented a report to the Inter-American Commission on Human Rights, an organ of the Organization of American States (OAS).

The “federalization” was born in Brazil with the Constitutional Amendment nº 45/2004 and works as a second opportunity for Brazil to treat properly the human rights violations and avoid international sanctions. The General Attorney of the Republic is the only one whom can promote this incident. On the other hand, Brazil is a member of OAS and recognized the Inter-American System of Human Rights, an Organization that can hold it responsible internationally for disobeying the American Convention of Human Rights, as has happened on the cases Maria da Penha and Ximenes-Lopes.

On the report sent to ICHR, Brazil is held responsible for violation of the rights to life, integrity and judicial protection is asked, the repair of the moral damage, the adoption of a Police’s Code of Conduct that respects human rights and regulates the use of lethal force, the reopening of the investigations of the cases of summary execution in May 2006 and the adoption of public policies of transparency and control regards the investigations and the crimes committed by public agent.

Public session

In May 12th, Conectas also took part in a public session that called attention to the human rights violations of the so-called "Crimes of May 2006". In this event, a research project coordinated by

Professor Ignácio Cano, that confirms the existence of indicia of summary execution in some of those crimes, was launched. [Click here to see the Prof. Cano's research \(in Portuguese\)](#)