

HUMAN RIGHTS COUNCIL

27th Session of the Working Group on the Universal Periodic Review (UPR)

Stakeholder's Submission on:

The Human Rights Situation in BRAZIL

Submitted by:

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(NGO's in Consultative Status with the ECOSOC)

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INTRODUCTION

The Associazione Comunità Papa Giovanni XXIII (APG23) is a catholic international association founded in Italy by Fr. Oreste Benzi. Its activities in the world of poverty and marginalization brought to the direct sharing of the life with the poor in 1973 when the first family-home was opened. The Community is now present in thirty countries of the five continents. The Association has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC) and its commitment at the UN is the result of sharing the life with the poor and is the fruit of the international elaboration and synthesis of the action for the removal of the root causes, which create injustice.¹ The present report contains the considerations resulting from the direct sharing and the stories gathered by Pope John XXIII Community Association's members and volunteers with limited to some of the topic regarding justice and detention in Brazil. In this report, APG23 has focused his attention on the following recommendations.

JUSTICE AND DETENTION FOCUS ON RECOMMENDATIONS n. 119.66 and following up to 78

1. SOURCES

APG 23 has been operating in Brazil since 1991² and through its sharing of life experience reaches out to about a thousand beneficiaries, including 57 children via long-distance adoption. We manage numerous reception facilities: 11 family-homes, 3 therapeutic communities, and 4 day-care centres. In 2003, we have started a volunteer visitation program to prisons throughout the country. Every week, 2 or 3 people visit prisoners, hear from them, and try to respond to some of their needs. Many people hosted in our communities are former detainees or have relatives who are currently detained in prison. Moreover, the Association has been active in extra-prison reception activities by assisting people detained in criminal mental institutions. For such further reasons, APG23 knows the dynamics of crime and prison and aims at encouraging rehabilitation and social reinsertion. In Brazil, the association operates in particular in the following states: Minas Gerais, Parà, Bahia and Paraíba with activities oriented towards the protection of the most marginalized social groups. Moreover, APG23 collaborates with APAC – the Association for Protection and Assistance of Convicts³, promoting alternative prisons with a unique method that aims at the respect of human dignity.

2. CONCERN AND RESULTS

2.1. Prison system

Brazil is the biggest country of Latin America and the fifth biggest country in the world. Although the political system is based on representative democracy, the Brazilian society is affected by serious problems of inequality implying the social and economic exclusion of most vulnerable groups. Extreme poverty and social exclusion due to fast urbanization has led Brazil to be one of the most violent societies in the world, as stated in the European Commission's document on "Strategy for Brazil 2007-2013"⁴. The Northeast region, according to the IBGE (Brazilian Institute of Geography and Statistics)⁵, is considered one of the poorest and underdeveloped ones. Despite an improvement in recent years, including a decrease in the illiteracy rate between 2001 and 2014, the region witnesses a strong concentration of illiteracy, poverty, inequality and violence. According to a study of the Federal University of Campina Grande (UFCG)⁶, the number of victims of violent crimes in Paraíba, one of the states in the Northeast, has increased by 200%, despite an investment

¹ http://www.apg23.org/it/presenza_onu/

² <http://www.condivisionefraipopoli.org/> <http://www.apg23.org>

³ 'ARESSOCIALIZAÇÃO DE APENADOS POR MEIO DO MÉTODO APAC (ASSOCIAÇÃO DE PROTEÇÃO E ASSISTÊNCIA AOS CONDENADOS) COMO ALTERNATIVA AO SISTEMA PRISIONAL: EM BUSCA DE EFETIVIDADE AOS DIREITOS HUMANOS' eda: di Bibiana Rabaioli Prestes -FADISMA Santa Maria 2014

⁴ Brazil: country strategic paper 2007-2013. 14 maio 2007 (E/2007/889).

⁵ www.ibge.gov.br/home/

⁶ O panorama dos homicídios no Nordeste brasileiro: dinâmicas, nexos causais e os desafios da gestão da segurança pública" di Prof. Dr. José Maria P. da Nóbrega Júnior – Universidade Federal de Campina Grande (NEVU).

in public safety (of about R \$ 202 in 2014). The study shows that in 2012 Paraíba has recorded 39.97 violent deaths per 100,000 inhabitants, an increase of 200.79% in a 12-year period. This shows how the number of murders in the Northeast has increased steadily since the 80s. It is worth noting that most of the victims are young men, of African American ethnicity, with a low level of education. Despite some improvements in poverty levels, violence continues to grow and is closely linked to urban poverty, inequality and social exclusion. João Pessoa, capital of Paraíba, is the most violent city of the state (with 133 murders per 100,000 inhabitants).

Regarding the prison population, the "Integrado de Informações System Penitenciárias" by Ministry of Justice⁷, a document gathering data until 2014, shows that the prison population has increased by 161% since 2000, placing the country in fourth place in the world as prison population. In March 2016 Brazil was considered one of the countries with the highest number of prisoners in the world, with an increase of 7% per year, with a deficit of 231 thousand. For example, only in Paraíba, in 2014, the number of prisoners has reached 9,278.

The problem is not only the overcrowding, but also the conditions of the detainees, as well as the violence perpetrated within the prisons.⁸ People who have completed their sentences and have been accepted into the structures of the Community John Pope XXIII, prisoners' families as well as community members visiting the Brazilian prisons witness stories of torture and ill-treatment as a means of control and punishment and poor hygiene and sanitary conditions. Facilities are crumbling and nor vocational programs nor trainings for detainees are carried out. Only 9% is allowed to study. This framework hinders the process of social reintegration of prisoners, which become with their families victims of a violent rejection from society. The imprisonment of a family member is a great humiliation for the whole family. Ashamed about the situation, the family avoids contact with neighbours, friends and other relatives for fear of prejudice and discrimination.

Woman becomes the family point of reference as well as the person in charge of supporting the household. Most of the time, without any kind of help or support, women are asked to deal with their husband or partner "business". The lack of programs aimed at fostering families' detainees social reintegration fuels the cycle of poverty and social exclusion, especially for women.

Brazil is a democratic state based on the fundamental principle of dignity and respect to human beings' physical and psychological integrity. Under this perspective the fulfilment of detainees' social rights should be granted in accordance with law 7,210 / 84 - LEP (Law of Penal Execution)⁹, which in Art. 40 foresees specific social rights such as: proper feeding and clothing, remuneration of detainees' work, carrying out vocational, intellectual, artistic and sport activities, medical, legal, educational, social and religious assistance, etc. So, the "Law of Penal Execution" strengthens the right of the prisoner to work with an educational and productive purpose and the duty of the State to prevent crimes and foster social reintegration process.

However, the prison system remains punitive and repressive, and is based on the idea that in order to decrease crime, the "criminal" has to be institutionalized and eliminated. Therefore, within prisons are found the poorest segments of the population, "those who have no" right, people rejected by society, and which, most likely, will pass their life entering and leaving the prison, in a vicious circle of violence and abuse, victimization of families, women, children and adolescents.

2.2 Prisoners social integration

Social integration remains very difficult for prisoners and their families. They will be always considered by society as ex-detainees, discriminated, and stigmatized, with no opportunity of a worthy job. The lack training, cultural growth and programs allowing a real recovery and an active participation of the prisoner and his family, makes reintegration within society extremely hard.

⁷ Levantamento Nacional DE INFORMAÇÕES PENITENCIÁRIAS INFOPEN – JUNHO de 2014". MINISTÉRIO DA JUSTIÇA.

⁸ [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Brazil](#)

⁹ [BRASIL \(1984\), Lei 7210/84 - Lei de Execuções Penais.](#)

Detention produces deleterious effects on detainees' personality, leading to identity and self-esteem loss. Instead of guaranteeing a recovery path and a real rehabilitation for the detainee, prison encourages people to adapt to the system by giving also the possibility to set out new illegal acts. This vicious circle leads to a sharp increase in recidivism rate that reaches around 70% and 80% in the state of Paraíba, above all among the poorest population with no prospect of social reintegration. Detainees' families are among the poorest (98% of cases) and they are socially very vulnerable. Prison produces a greater increase in social exclusion and marginalization of the whole detainees' family which suffers the consequences of the detention together with the detainee.

2.3 Innovative experience

APAC, is an internationally recognized re-educational methodology addressing detainees, created by judge Mario Otoboni in 1972 in the State of São Paulo. Civil entity of private law, APAC aims at recovering and reintegrating detainees in society.

The APAC method is recognized by the Brazilian government and provides an innovative rehabilitation treatment, starting from the co-responsibility of the detainee to his own rehabilitation, by his involvement in professional and training courses. Doctors, psychologists and lawyers support detainees. In the house they live in there aren't guards or policemen.

The APAC method is characterized by a rigid discipline based on respect, order, work and the involvement of prisoners' family. APAC aims at humanizing prisons, without losing the punitive purpose of the sentence, providing alternatives to detention and avoiding recidivism.

There are various centres throughout Brazil: 4 in the state of Minas Gerais and 78 in all the other Brazilian states. APAC has been implemented for 40 years and statistics show that recidivism rate has been lowered to less than 10% compared to 70% of the other Brazilian detainees. This re-educational methodology has been spread beyond the continental borders and, with revisions and adjustments, implemented also in different European countries.¹⁰ Specifically, the APAC method offers enlightening practices aiming at effectively reintegrating detainees. Government involvement in the public management of rehabilitation and prison treatment is however foreseen, in order to avoid regrettable drift towards privatization¹¹

3. RECOMMENDATIONS

1. Urgently raise awareness on the fight against stigma and criminalization of the individual who committed crimes and on the rehabilitative purpose of penalty as well as on detention as a whole, by using broad-casting spaces by governments, sharing research and conferences results, and organizing public information campaigns.

Promote awareness among specific population targets through:

- *training of teachers in schools and universities also through volunteering*
- *including moments of reflection with students*
- *interaction with local governments*
- *debates with prison staff and law professionals*
- *specific training on violence, detention and reconciliation*

2. Implementing new kind of modalities of enforcement of the sentence for people who have committed minor crimes and for minors, in order to avoid prison overcrowding and foster detainees' rehabilitation through 'extramoenia' sentences, foreseeing the involvement of volunteers in the external enforcement of the sentence.

¹⁰ <https://europa.eu/cyd2015/en/european-union/stories/week-49-new-chance-prisoners-brazil>

¹¹ <http://carceraria.org.br/nota-de-repudio-ao-pls-no-513-de-2011-que-estabelece-normas-para-a-privatizacao-de-presidios.html>

3. *Set up a legal system of penalties which makes possible an individualized adaptation and proportion of the penalties imposed by the sentence*
4. *Expanding through new regulatory instruments alternative measures to detention and promoting penitentiary benefits;*
5. *In absence of a suited domicile, foreseeing 'extramoenia' sentences to be served in care, assistance and reception public and private structures.*
6. *Reducing prison overcrowding.*
7. *Ensuring that every detainee, without any kind of discrimination, is offered an effective rehabilitation program, including vocational training programs.*
8. *Implementing monitoring instruments aimed at guaranteeing the fulfilment of detainees' social rights, as foreseen in the Law of Penal Execution, such as health and equal access to a quality education;*
9. *Taking appropriate measures to support detainees' families through the creation of family support pathways aimed at reducing social exclusion and discrimination, and fostering access to social services, health care, social assistance, social security, education, and employment.*
10. *Calling on the Judicial System to speed up the timing of detainees' court proceedings*
11. *Introducing specific trainings for prison staff aimed at preventing cruel and/or violent measures and treatments;*
12. *Improving prison staff working conditions and salary*
13. *Developing innovative projects with the aim of offering the detainee a social reintegration and educational pathway, creating debates with territorial institutions and Civil Society.*
14. *Promoting collaboration between State and Civil Society by urgently take alternative measures to the deprivation of personal freedom in the sentence institutes, giving a specific role to actors of civil society who have presented propositions to experiment alternative forms of detention to prison. (APAC-Method)*
15. *Finally, **on reporting and follow up of the third UPR Cycle**, we would like to recommend the following:*
*Ensure the effective implementation of UPR recommendations through the establishment by the time of the mid-term review of the current cycle, **of a permanent governmental mechanism** to liaise with relevant ministries and consult with civil society, National Human Rights Institutions (NHRIs) and all relevant stakeholders.*