

**SUGGESTIONS OF QUESTIONS AND RECOMMENDATIONS TO BE ADDRESSED TO BRAZIL
FOR THE UPR – UN HUMAN RIGHTS COUNCIL (HRC)**

Conectas Direitos Humanos and GAJOP, NGOs based in Brazil, have been participating very actively in the Brazilian Universal Periodic Review (UPR), both during the national consultation process and during this pre-working group phase. The objective of the following document is to contribute to the review process, offering inputs - questions and recommendations – that would contribute to the effective promotion and protection of human rights in our country.

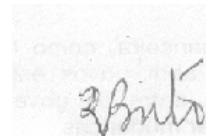
Conectas Direitos Humanos is a NGO, with ECOSOC Special Consultative Status, based in Brazil, working to strengthen south-south relations between human rights organizations working in Africa, Asia and Latin American (www.conectas.org).

GAJOP (Legal Advisory Office for Popular Organizations) also is a special consultative status NGO with the ECOSOC. The International Human Rights Program of GAJOP was created to provoke international human rights systems in those cases unsolved by Brazilian jurisdiction (www.gajop.org.br).

Best regards,



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I. INTERNATIONAL HUMAN RIGHTS LAW AND COOPERATION WITH INTERNATIONAL HUMAN RIGHTS MECHANISMS

Brazilian Official Report	Problems identified through UN recommendations	Suggested Questions	Suggested Recommendations
<p>Emphasizes that the Brazilian State has ratified the principal International Instruments for the protection of Human Rights and also intensified the national legislation process in the area.</p>	<p>Incomplete incorporation of International Human Rights Instruments.</p>	<p>Why Brazil still haven't signed the two Optional Protocols to the International Covenant on Civil and Political Rights?</p> <p>Why there was no reference, in the report to the UPR, regarding the Brazilian voluntary commitments to the election for the Human Rights Council (pledge)?</p> <p>When does Brazil intend to ratify (or initiate the proceedings) the International Convention for the Protection of All Persons from Enforced Disappearance (2006) and the Convention on the Rights of Persons with Disabilities and its Optional Protocol (2007)?</p>	<p>To begin the internal proceedings for the ratification of the five mentioned instruments, within the period of one year.</p>
<p>Refers only once to the Recommendations of the UN Special Rapporteurs and Treaty-Bodies.</p>	<p>Insufficient level of cooperation with the UN mechanisms for the protection of human rights.</p>	<p>Why the Brazilian State, in its report to the UPR, did not make any references to the voluntary commitments of its pledge related to the recommendations of special procedures and treaty-bodies – as “to maintain (...) a frank and constructive dialogue with the mandate holders, with special attention to the follow up of its recommendations”, and to “maintain a broad and transparent cooperation with the treaty-bodies, including through the timely presentation of the periodic reports and implementation of recommendations provided by the Committee“¹?</p>	<p>To designate, at federal level within the Brazilian State, an organ responsible to widely disseminate, accompany and guarantee the implementation of the recommendations of the UN mechanisms in Brazil – this organ could be the Special Human Rights Secretariat;</p> <p>To report to the UN Human Rights Council (WG UPR), as well as the Special Mechanisms, within a period of 2 years, after a broad consultation process with civil society, on the implementation of the recommendations (the report could include a country visit of a UN Commission, within two years, composed by; representatives of the</p>

		<p>How does the Brazilian State justify its infrequent answers to the letters from the Special Rapporteurs and the Working Groups?</p>	<p>OHCHR, Special Rapporteurs, HRC members, etc – as a way of contributing to the UPR follow-up);</p> <p>To reiterate the obligation of the Brazilian State to respond to all communications from UN mechanisms (within a period of two months);</p> <p>To widely disseminate the HRC’s activities and sessions, especially when treating issues regarding Brazil, making use of the webcast, capacity-building seminars or other medium, seeking to approach the HRC to local realities.</p>
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II. TORTURE AND SUMMARY EXECUTIONS

Brazilian Official Report	Comments by Gajop and Conectas	Suggested Questions	Suggested Recommendations	Recommendations already made by Special Procedures and Treaty-bodies
<p>Recognizes the lack of data and statistics to be used for public consultation on human rights violations performed by State agents.</p>	<p>Between 2001 and 2003, the National Campaign to Combat Torture directed 778 cases of institutional torture to the District’s Attorney Office. Of these, only 31 cases resulted in charges, 4%; 6 resulted in convictions, thus only 0,7% of the original cases².</p>	<p>Why have not Brazil created any such data base already?</p> <p>What actions have been adopted in articulation with federal states and municipalities, for the creation of a data base on violations committed by public agents, that is updated, complete and transparent?</p> <p>What is intended to be done, in concrete terms, within the period of one to two years, to achieve this?</p>	<p>To initiate internal proceedings for the creation of a model for a complete data base, updated and transparent, and in partnership with the federal states, within one year.</p>	<p>To maintain a coherent data base on committed violations by members of State coercion agencies³;</p> <p>To collect statistical data on judicial functions to monitor the efficiency of the judiciary services;</p> <p>To implement an advanced system for data collection on this theme and establish indicators for evaluating well-performing of the judiciary services⁴.</p>

<p>Recognizes the existence of abuse of power, practice of torture and the use of excessive force, committed by the police and prison guards.</p>	<p>Brazil continues having record high homicide rates, many caused by police institutions, having between 2000 and 2006 an increase of 134% for every 100.000 inhabitants, of number of executions performed by the police⁵.</p>	<p>What measures have been implemented for demilitarizing the police force?</p> <p>What measures have been adopted for compensating victims (and family of victims) of torture?</p>	<p>That the Brazilian State immediately improve its measures for compensating victims (and family of victims), without the occurrence of lengthy law suits, and further recognizing the violations.</p>	<p>The abuse of power should immediately cease⁶;</p> <p>The State should ensure immediate and impartial investigations concerning all allegations on human rights violations committed by law enforcement officials⁷.</p>
<p>Recognize the resistance among police officials to denounce and investigate cases of torture when performed by colleagues in the profession and does not include information about suspension of policemen involved in extrajudicial executions.</p>	<p>In Brazil, there are only a few states that keep record on their Public Security institutions, official national statistics are non-existent.</p>	<p>What measures have been adopted to improve and strengthen the independence of external control organs, as the Internal Affairs Office?</p> <p>What has concretely been done in the last years for guaranteeing impartial and independent investigations of cases of executions and torture?</p>	<p>The Brazilian State should act to endow the Internal Affairs Offices for prisons and the Civil and Military Polices with adequate resources and independence for investigating cases of torture.</p>	<p>The State should adopt necessary measures to guarantee immediate and impartial investigations⁸;</p> <p>The prosecutors should formalize its accusations according to the terms of the Law against Torture from 1997⁹;</p> <p>The State should also (beside the criminal proceedings) initiate a judicial investigation to compensate victims¹⁰;</p> <p>Relatives of victims should have access to relevant information from the investigation¹¹.</p>

III. HUMAN RIGHTS VIOLATIONS IN PRISONS AND JUVENILE DETENTION CENTERS

Brazilian Official Report	Comments by Gajop and Conectas	Suggested Questions	Suggested Recommendations	Recommendations already made by Special Procedures and Treaty-bodies
<p>Recognizes that the overcrowded prisons constitutes a generating element for frequent rebellions, in the end causing deaths of detainees - according to government statistics, the prison system has a deficit of almost a 105.000 vacants.</p>	<p>The overpopulation is present in all states with the exception of the federal states of Tocantins and Piauí¹².</p> <p>From 2002 to 2005, the imprisonment rate increased from 178,3 prisoners per 100.000 inhabitants to 198,3 (+ 9,2%)¹³.</p>	<p>What measures have been implemented for reducing imprisonment (such as alternatives measures, revision of penal legislation, rationalization of penalties and improvement of procedural defense)?</p>	<p>That the Brazilian State commits itself to adopt alternative measures to the deprivation of liberty, in addition to a strengthening of the public defenders offices;</p> <p>That the Brazilian state commits itself to revise its penal legislation, adjusting the criminalization mandates with the end of making imprisonment an ultimate measure.</p>	<p>Overcrowding of temporary prisons does not justify leaving detainees in the hands of the police¹⁴;</p> <p>Urgently adopt measures for improving detention conditions in police stations and penitentiaries, the member state should also duplicate its efforts for solving the problem of overcrowded prisons and set up a monitoring system for systematic and independent control of the treatment of persons in police retention, detained or imprisoned¹⁵.</p>
<p>Does not deal with juvenile detention facilities for adolescents in conflict with the law.</p>	<p>According to statistics of the Special Secretary on Human Rights of the President of the Republic, the number of adolescents deprived of liberty increased by 325% between 1996 and 2006¹⁶.</p>			<p>The State should develop programs and politics for preventing detention, for example; giving support and advise to the most vulnerable families through social programs¹⁷;</p> <p>Intervene with urgency for reforming the system for juvenile detention, juvenile detention centers should be transformed into providing re-education, rehabilitation and reintegration programs for adolescents¹⁸.</p>
<p>Does not approach the restrictions laid upon members of civil society for accessing and monitoring juvenile detention centers.</p>	<p>According to the internal rule, there is no provision of monitoring activities and visits.</p>	<p>What measures have been adopted for establishing a national policy for monitoring the juvenile detention centers by Human Rights NGOs?</p>	<p>That the Brazilian State promotes the elaboration of a national policy for permanent supervision of the juvenile detention centers by Human Rights NGOs;</p> <p>To establish a national</p>	<p>Should guarantee the unrestricted access for NGOs to all detention facilities with the power to conduct monitoring activities for exposing irregularities among detention personnel¹⁹;</p> <p>Should conduct permanent monitoring of all establishments of this nature including establishments for detention of minor offenders, independent of the authority responsible for the institution²⁰.</p>

			institution, providing equal access and participation to all stakeholders, working as a supervising organ on the issue.	
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IV. HUMAN RIGHTS DEFENDERS

Brazilian Official Report	Comments by Gajop and Conectas	Suggested Questions	Suggested Recommendations	Recommendations already made by Special Procedures and Treaty-bodies
Does not mention any Public Policy or Program dealing with human rights defenders, victims and witnesses facing death threats.	The Program for the Protection of Witness (PROVITA) was created to offer social, medical and psychological and legal assistances as well professional capacity-building courses ²¹ . Nonetheless, its quality and effectiveness is being widely criticized.	<p>What measures does the state intend to take in the two following years to broaden and improve the performance of the PROVITA?</p> <p>What concrete actions does the Brazilian State intends to take in terms of legal, methodological and financial measures, in the next 12 months, for strengthening the National and Federal Programs for the protection of Human Rights Defenders?</p>	<p>Organize a national consultation between involved State organs and the executive institutions of PROVITA to discuss their common responsibilities and roles in the execution of the Program (in 2008);</p> <p>Approve a legal and methodological framework for the Program for Protection of Human Rights Defenders, having in consideration the good practices on the international level, announcing goals and terms regarding the number of defenders assisted (starting from today until the end 2008).</p>	<p>The Federal Government must negotiate with state governments to broaden the program established for the protection of human rights defenders. Guidelines for selection and training of the police for this program should be drawn and followed uniformly in the country. There must be a wider awareness of the United Nations Declaration on Human Rights Defenders amongst all Federal and state agencies involved in this program. However, physical protection can only be a temporary measure and faster progress must be achieved in alleviating social, political and economic conditions that place defenders at greater risk²²;</p> <p>The Government may consider convening a convention of the leaders of social movements, representatives of human rights organizations, and other interested and relevant actors to develop a National Plan of Action for the protection of human rights defenders and for facilitation of their activities²³.</p>

V. DISCRIMINATION IN THE PUBLIC HEALTH SYSTEM

Brazilian Official Report	Comments by Gajop and Conectas	Suggested Questions	Suggested Recommendations	Recommendations already made by Special Procedures and Treaty-bodies
<p>Does not mention at any occasion – be it gender or racial discrimination or the right to health – the double discrimination experienced by black women in the Brazilian public health system. It does however recognize the existence of racism in society and the progress made for the realization of women’s rights.</p>	<p>Although the National Health Council of Brazil approved the National Policy for the Integral Health of Black Population, there are no resources allocated to its implementation, which means that it is only on paper.</p> <p>Researches have shown that a black woman has 5,6 times higher chance of dying during the gravidic-puerperal cycle than a white women²⁴.</p>	<p>What has Brazil done for combating the gender and racial discrimination – recognized in the official Brazilian report – inflicting the public health system?</p> <p>Due to the indications of existent inequalities between black and white women regarding health and maternal mortality rates, what measures have been taken by the Brazilian government to counterbalance this disparity?</p>	<p>Immediate implementation of the National Integral Health Policy for the Black Population;</p> <p>Formulate data/statistics disaggregated by race/color, as a measure for creating a specific public policy concerning the health of the black population;</p> <p>Education of professionals in the health area, in questions of race, gender and human rights – a fundamental measure for combating institutional racism in public health services.</p>	<p>To enhance collection of data disaggregated by sex, race and age, where appropriate, in all areas covered (...) in its next report so as to provide a full picture of the implementation of all the provisions of the Convention²⁵;</p> <p>To regularly conduct impact assessments of its legislation, policies, plans and programs to ensure that measures taken lead to the desired goals, and that it inform the Committee about the results achieved in the implementation of the Convention in its next report²⁶;</p> <p>To continue its efforts to enhance women’s access to health care, in particular to sexual and reproductive health services (...)²⁷;</p> <p>The Committee further requests the State party to monitor closely the implementation of the National Pact for the Reduction of Maternal Mortality at state and municipal levels, including by establishing maternal mortality committees where they still do not exist²⁸.</p>

¹ Brazilian pledge 2006, available at <http://www.un.org/ga/60/elect/hrc/brazil.pdf>.

² Final Report of the Permanent National Campaign to Combat Torture and Impunity, 2004

³ Special Rapporteur for Extrajudicial, Arbitrary and Summary Executions, E/CN.4/2004/7/Add.3, para. 80.

⁴ Special Rapporteur on Independence of Judges and Lawyers, E/CN.4/2005/60/Add.3, 2004, para. 110.

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- ⁵ Data gathered from the Sao Paulo and Rio de Janeiro Public Security Secretariats, 2000-2006.
- ⁶ Special Rapporteur on Torture, E/CN.4/2001/66/Add.2, 2000, para. 02.
- ⁷ HR Committee, Concluding Observations, CCPR/C/BRA/CO/2, para.12, “b”.
- ⁸ Committee Against Torture, Concluding Observations, CAT/C/9/Add.16, para. 120, “b”.
- ⁹ Special Rapporteur on Torture, op. cit., para.12.
- ¹⁰ Special Rapporteur for Extrajudicial, Arbitrary and Summary Executions, op.cit, para. 83.
- ¹¹ Idem, para. 88.
- ¹² 3º Relatório Nacional sobre os Direitos Humanos no Brasil, USP – Núcleo de Estudos da Violência, 2002-2005, pag. 14.
- ¹³ Idem.
- ¹⁴ Special Rapporteur on Torture, op. cit., para. 23.
- ¹⁵ Committee Against Torture, Concluding Observations, op. cit, para. 120, “d”.
- ¹⁶ ANCED: National Association of Centers for Defense of Child Rights, UPR Submission, November 2007 (English), pages 6-7
- ¹⁷ Committee on the Rights of the Child, Concluding Observations, CRC/C/15/Add.241, 2004, para. 45, “b”.
- ¹⁸ Op. cit., para. 118.
- ¹⁹ Special Rapporteur on Torture, op. cit., para. 18.
- ²⁰ Idem, para. 24.
- ²¹ Federal Law n.º 9.807/99
- ²² Special Rapporteur for Human Rights Defenders, A/HRC/4/37/Add.2, para. 103
- ²³ Idem, para. 104
- ²⁴ MARTINS, Alaerte Leandro. Mortalidade Materna de Mulheres Negras no Brasil. Cadernos de Saúde Pública, Rio de Janeiro, 22 (11):2473-2479, nov. 2006.
- ²⁵ Committee on the Elimination of Discrimination against Women, Concluding comments of the Thirty-ninth session, 2007, para. 36
- ²⁶ Idem, para. 30
- ²⁷ Ibidem
- ²⁸ Ibidem