

SECOND CYCLE OF UNIVERSAL PERIODIC REVIEW - UPR
BRAZIL – 2012

INSTITUTE FOR DEVELOPMENT AND HUMAN RIGHTS – IDDH
NON-GOVERNMENTAL ORGANIZATION



Joinville – SC - Brazil, November, 28th, 2011



SUBJECT: IMPLEMENTATION OF INTERNATIONAL AND REGIONAL HUMAN RIGHTS DECISIONS

FIRST PROBLEM: Lack of appropriate internal legislation (Draft Law 4.667/2004) for the implementation of international and regional human rights decisions and recommendations.

01. It is clear that the Brazilian State has not a national plan for the implementation of decisions and recommendations of international human rights bodies or even an adequate legislation on the subject.

02. Brazil has, however, the Draft Law 4.667/2004 which is currently in the Senate (after being voted in the House of Representatives). This Draft is not adequate for its purpose. It is very simplistic, it does not consider the compliance of the precautionary and provisional measures from international human rights bodies, for example. It is important to highlight that the Brazilian government does not also welcomes international recommendations on human rights violations made by international bodies like the UN and the Inter-American Commission on Human Rights, even the UPR recommendations.

03. The problem is that these gaps can be used for non-compliance the international decisions. In addition of that, the Draft Law 4.667/2004 is retrograde because it makes the development of international human rights systems more difficult in the sense that it makes very complicated and slow its implementation at the domestic level, with a probable consequence of discredited by its users: social vulnerable groups.

04. Therefore all the problems presented justify the need for the State to draft a national plan for implementing the decisions and recommendations made by international human rights bodies, make a conducting legislative and institutional reforms needed, once its absence has proved the neglect and consequent failure, sometimes partially and other total, by Brazil in this theme. This failure causes several damages to the human rights protection in the country.

SECOND PROBLEM: Lack of interest of the State to implement the decisions and recommendations from international human rights bodies.

05. Brazil is a powerful country in the Latin America and its actions reflect on the continent in an unquestionable way. One example is how the Inter-American Human Rights System is currently suffering from a serious problem of legitimacy, especially since the recent

position taken by the Brazilian government in relation to a precautionary measure related to the case “Belo Monte”, discrediting this regional system. It shows the extreme indifference of Brazil sometimes on human rights subjects when it involves governmental interests (the construction of the Belo Monte hydroelectric, for an example).

06. Brazil has received until this date, under the universal system of human rights, 235 recommendations of the UN Committees, 264 recommendations of Special Rapporteurs and 15 recommendations in the first cycle of the Universal Periodic Review (UPR) in 2008. In the regional (Inter-American) system, was condemned by the Inter-American Court of Human Rights in 5 opportunities, which also issued 5 provisional measures. It has also been determined to fulfill 30 precautionary measures issued by the Commission on Human Rights (the last one about Belo Monte).

07. It is clear, however, that the degree of compliance with the decisions and recommendations mentioned above is very low, especially because the State has not struggled too much to just comply them nationally.

08. The effort made by the Government is noticeable with the Third Edition of the National Human Rights Program (PNDH-3) that established goals to respect and comply the international human rights treaties and decisions, but it is also known that, however, with no adequate legislation these goals will never be monitored or complied in a transparent way.

09. In the first cycle of the UPR in which Brazil was analyzed in 2008, the IDDH sent a letter to the National Secretariat of Human Rights showing our concern about the consultation process carried out with the civil society organizations. IDDH suggested at that time to the Brazilian State to elaborate an annual report about the human rights situation in the local level in order to have this review process annually and not just during the UPR cycle. This annual report was a voluntary commitment made by the Brazilian Government during the UPR First Cycle (which has not already been implemented).

10. The IDDH comes with this document to demonstrate that it is really important to Brazil to have a transparent and clear position regarding the implementation of the human rights international and regional decisions. We do not have an internal law or directions to follow and monitor this implementation. It is fundamental that the Brazilian's position becomes clear and transparent in how it intends to implement international decisions, since, without legislation or a clear position, there is no way to monitor and charge their compliance.

SUGGESTIONS OF RECOMMENDATIONS:

11. We suggest some recommendations that could be made to the Brazilian State:

- a)** Suggest the holding of a public audience to be held in the National Congress, with influent stakeholders, about a national plan on implementation of international and regional human rights decisions;
- b)** Recommend that the Brazilian State has a clearer policy on compliance and enforcement of international human rights decisions issued by international organizations and, in particular, to review the Draft Law 4.667/2004, which is still pending in the Senate and it is not adequate to solve the situation, (perhaps supporting a research comparing the experience of others legislations in Latin America);
- c)** Recommend the preparation of an annual report on human rights situation in the country since it was a voluntary commitment assumed by Brazil in the first cycle of the UPR in 2008.

A handwritten signature in blue ink that reads 'Fernanda Lapa'.

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