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URGENT

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to forward herewith the response by the Government of Brazil to the joint communication signed by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences, regarding the allegations of cruel, inhuman or degrading treatment or punishment to men, women and juveniles in holding cells of police stations in the State of Mato Grosso do Sul.

The Permanent Mission of Brazil to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, November 11, 2014

This statement answers the joint communication signed by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover; by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez; and the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, regarding the allegations of cruel, inhuman or degrading treatment or punishment to men, women and juveniles in holding cells of police stations in the State of Mato Grosso do Sul. The Special Rapporteurs asked the Brazilian State the following questions and made the following comments:

- i) Please provide any additional information and any comment you may have on the allegations mentioned in the joint communication;
- ii) Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to the conditions of detention of persons in police stations in the State of Mato Grosso. If no inquiries have taken place, or if they have been inconclusive, please explain why;
- iii) Please provide detailed information regarding access to medical care in the police stations mentioned in the communication, in particular medical care in emergency situation, access to pre-natal care, or specialized treatment, such as mental health care;

iv) Please provide information or steps taken to address the concerns raised by the Labour Union of Policemen of Mato Grosso do Sul and to improve the conditions of detention of persons in police custody in that State, including the security risks faced by inmates and police officers due to the overcrowding and overall situation at police stations there. What measures have been taken to reduce the level of overcrowding in those holding cells?

v) Please explain how many persons are currently serving their prison terms in police holding cells in the state of Mato Grosso do Sul, what is the average length of their detention there, and why are they not transferred to the proper places of deprivation of liberty.

INFORMATION AND COMMENTS

Preliminarily, the State Secretariat of Justice and Public Safety of Mato Grosso do Sul, through Official Letter Sejusp/MS/SPP/202/2014, dated September 22, 2014, stated that there are no men, women (adults) or juveniles being held in the same holding cells, which are often visited by members of the Judiciary and of the State Public Prosecutor Office. It also clarifies that juveniles have never spent more than 5 days in custody. When this time limit is reached, and there are no vacancies in social and educational establishments, they are set free.

Mato Grosso do Sul Public Defender's Office has closely followed the accusations regarding the alleged facts and has started procedures whenever necessary. Additional information, listed per location and provided by the Public

Defender's Office, is listed below (Official Letter Gab. DPGE n. 1009/2014, dated September 19, 2014):

Deodápolis - There are no prisoners in the police station;

Glória de Dourados - There are only two prisoners, one provisional and the other serving regression regime, waiting to be transferred;

Caarapó - There are 52 prisoners (and not 107 as mentioned in the joint communication);

Iguatemi - Overcrowding is verified, since the capacity is up to 14 prisoners and there are currently 37 inmates. The location receives prisoners from neighboring cities, which is one of the causes of the problem. The judge in charge of Iguatemi's judicial district issued a rule that temporarily allowed receiving prisoners from other districts. The Public Prosecutor's Office has filed a lawsuit to close down the jail and protect prisoners and police officers.

The Civil Police always try and provide inmates with sunbathing. The prisoners receive medical care in the local hospital;

Mundo Novo - The Prison has capacity for up to 24 prisoners, and it currently holds 25 prisoners, distributed in six detention cells. Sunbathing and visits are regularly offered. Health services are promptly offered at the local medical centers. Local authorities have helped with hygiene care and have also offered social services to the prisoners and their families;

Três Lagoas - there are no inmates in the 2nd and 3rd Police Stations. At the 1st Police Station no more than 10 prisoners have been kept and for a short period of time;

Brasilândia - The premises have been closed for renovation; there are no prisoners;

Jardim - The information that juveniles have been detained for long periods of time is not accurate. At the 1st Police Station, there are two holding cells. One of them is only for juveniles, who stay there for no more than 5 days. The other cell is reserved for women and has 10 prisoners at the moment. Sunbathes and visits are regularly offered. Medical care is promptly provided when necessary;

Sete Quedas - The Police Station of Sete Quedas has two holding cells, currently occupied by 11 male prisoners (six in one cell, five in the other); and

Sidrolândia - There are 36 prisoners in 7 holding cells; the information that there are more than 15 persons in the same cell is not accurate. There are no women or juveniles imprisoned. Visits and sunbathing are regularly provided, as well as medical assistance at the nearest medical centers and hospitals. On October 31, 2013, Mato Grosso Public Defender's Office filed a request before the 1st District Court of Sidrolândia registered under number 0801303-17.2013.8.12.0045, to improve local conditions, and the situation has since gradually improved.

JUDICIAL MEASURES AND INQUIRIES

As informed above, Mato Grosso Public Defender's Office filed a request on October 31, 2013, under registration # 0801303-17.2013.8.12.0045, before the 1st District Court of Sidrolândia. The lawsuit is still in progress, and it has

been effective at helping to find solutions to some of the emergency problems in the locality (renovation of detention cells, prisoners' transfers, etc.). There is also a civil action filed by the Public Prosecutor's Office about the conditions in holding cells in the city of Iguatemi, which is also in progress.

MEDICAL CARE

Mato Grosso do Sul's police stations do not have specific rooms or medical facilities for prisoners, since the cells hold, mostly, people in transit. According to the information provided by the State's Public Defender's Office, medical services for people under custody are provided at nearby health units and hospitals to which prisoners are escorted.

Those inmates who are transferred from cells in police stations to prisons are supported by the National Health Program for the Penitentiary System ("Plano Nacional de Saúde no Sistema Prisional" - PNSSP), set forth by the Interagency Decree N° 1,777, enacted on September 9, 2003. The state penitentiaries have basic health units, each one of which with a multi-professional team of at least five undergraduate or graduate professionals, such as physicians, nurses, psychologists, social assistants and dentists, and one nursing assistant. That team is in charge of programs for treatment and prevention of diseases related to oral and women's care. These professionals also focus on treatment and prevention of sexually transmitted diseases, HIV/Aids, viral hepatitis, mental illnesses, tuberculosis, hypertension, diabetes and Hansen's disease.

The professionals also work on immunizations, sample collections for laboratorial examinations, and basic pharmaceutical assistance.

The access to medium and high complexity services provided by the Program is granted by the State of Mato Grosso do Sul, according to the rules established under the Steering Plan for Regionalization ("Plano Diretor de Regionalização") and upon the approval of the Bipartite Inter-Management Commission and the State Health Council.

All 27 states of the Brazilian federation take part at the PNSSP. 271 health teams, distributed over 239 penitentiaries, serve a significant part of the prison population (around 150 thousand people). The Brazilian government recognizes, however, that such health care needs to be expanded.

As a complement to the PNSSP, the new National Policy for Comprehensive Healthcare for Persons Deprived of Freedom in the Prison System ("Política Nacional de Atenção Integral à Saúde das Pessoas Privadas de Liberdade no Sistema Prisional" - PNAISP) was established under Brazil's Unified Health System, known as SUS, through the Interagency Decree No 1/2014, enacted on January 2, 2014. The objective of this new health policy is to ensure that persons deprived of freedom have access to full health care at the Brazilian SUS, which is a state-run universal health system. PNAISP'S guidelines are listed below:

I - promotion of social inclusion of persons deprived of freedom through activities related to areas such as education, work and safety;

II - effective, continuous, and qualified full attention to the health needs of the people deprived of freedom in the prison system, with a focus on preventive actions and assistance services;

III - control and/or reduction of the most frequent health problems which affect the population deprived of freedom in the prison system;

IV - respect to ethnic-racial diversity, to special physical and mental needs and limitations, to social and economic conditions, to cultural and religious practices and beliefs, to gender, sexual orientation, and gender identity; and

V - coordination for an integrated and rational management and for ensuring the enjoyment of the right to health to all inmates.

With the implementation of PNAISP, each prison unit will be a part of the healthcare system. The needs of the prison population will be contemplated by the local health policies. Through this Interagency Decree, by the end of 2014 the number of inmates who will have access to health services inside the prison institutions is expected to increase from 30% to 50% of the prison population in Brazil. Besides, by 2019, 100% of the inmates should be able to enjoy health coverage in an organized, effective and well-structured way under the Unified Health System (SUS).

In compliance with SPT recommendations for improving the health assistance of imprisoned women, Brazil has been working to equip prisons with maternal-infant health units, in order to provide 100% coverage, in all the federation units. To accomplish this goal, the federal government will provide states with financial support to buy items, such as first care materials for the assistance of women and children; assistance equipment for oral health; emergency kits; equipment for basic and gynecologic examinations; and items needed to allow for family integration and children and mothers' care.

The Brazilian Criminal Sentences Enforcement Act provides that imprisoned women who get pregnant will be placed in proper and adequate premises and will receive medical assistance, especially prenatal and postpartum care, extended to the newborn. Furthermore, the law states that imprisoned mothers and newborns will enjoy minimum conditions for being together during breastfeeding age. Laws No 11,634 and 11,108, enacted on December 27, 2007, and on April 7, 2008, respectively, provide that pregnant women have the right to visit and know the maternity unit where they will deliver, as well as the right to have a companion during labor.

STEPS TAKEN TO OVERCOME CHALLENGES

The State Secretariat of Justice and Public Safety of Mato Grosso do Sul has informed that the state government is building two jails for male inmates, with 603 vacancies

each, and one jail for female inmates, with 407 vacancies, generating 1.613 new vacancies in the state penitentiary system. Their total cost will reach R\$ 11,823,769.43.

Recently, Corumbá's penal institution has been renovated, with the addition of 115 vacancies to the prison system. The Dourados's semi-open penal institution for male inmates was also renovated, with the addition of 436 vacancies. The State is also expanding penal institutions in Rio Brilhante, Ponta Porã, Jardim and Amambaí. Thus, in a short period of time, the State will generate a total of 2,699 vacancies to better enforce the Criminal Sentences Enforcement Act and its priority goal, which is re-socialisation.

PRISON TERMS AND TRANSFERS

The State of Mato Grosso do Sul recognizes that it cannot always promptly transfer prisoners from police station holding cells to penal establishments, but it expects that this problem will be minimized with the 2,699 new vacancies to be created by the State in the near future. Transfers from police stations to prisons are authorized by the Judiciary branch and, at times, delays can occur, due to the need for careful legal assessment. The Public Defender's Office also pays regular visits (usually weekly) to police stations in order to assess the cells' conditions.