



Permanent Mission of Brazil to the United Nations Office in Geneva
Chemin Camille-Vidart, 15 – 1202 - Genève

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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 refer to the joint communication (AL BRA 2/2024) by the Special Rapporteur on the Right to Food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on the human rights to safe drinking water and sanitation.

In response to the Brazilian government's request for detailed information on the measures taken to improve prison conditions, guarantee adequate food and water supplies, and implement the recommendations of the National Mechanism for Preventing and Combating Torture, this Mission has the honor of forwarding a report by the Brazilian state, attached to this Note Verbale. Accompanying the report are two complementary documents.

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

Geneva, August 19th 2024.



To: ohchr-registry@un.org



FEDERATIVE REPUBLIC OF BRAZIL

AL BRA 2/2024

**OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN
RIGHTS (EACDH) – SPECIAL PROCEDURES BRANCH**

STATE REPORT

August 2024

The present report aims at replying to letter AL BRA 2/2024, signed by the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights to safe drinking water and sanitation.

Said letter presents contextual data on reported inadequate access to food, nutrition, safe drinking water and water rationing in prisons in Brazil, specifically emphasizing the present situation in prison facilities in the states of São Paulo, Piauí, Minas Gerais and Santa Catarina.

In this opportunity, the State of Brazil submits to the OHCHR and to the aforementioned special rapporteurs the following information, stemming from the Ministry of Human Rights and Citizenship (MDHC), the Ministry of Justice and Public Security (MJSP), the National Council of Justice (CNJ) and the Piauí State Secretariat of Justice, as well as from public data regarding measures adopted by the Federative Republic of Brazil as a whole.

With regard to up-to-date information on the adequacy of access to food, nutrition and drinking water in prison facilities in Brazil, the federal government, through the National Secretariat for Penal Policies of the Ministry of Justice and Public Security (SENAPPEN/MJSP) published in June 2024 a report on the matter, entitled “I National Overview of Access to Food and Water in the Brazilian Prison System”. The report consolidates information collected in Brazilian prison facilities in an unprecedented nation-wide diagnosis that indicates possibilities for state action to promote access to food, appropriate nutrition and water for persons deprived of their liberty.

Taking into account that the detail-rich and recently published SENAPPEN report addresses a significant amount of the points raised by the Special Rapporteurs, an English translation of the document is attached to this file as “Annex I”. It must be noted that the report aims at subsidizing the institutionalization of a national program of food and nutrition security in the prison system, and that it is part of a set of essential measures to tackle the unconstitutional state of affairs within the Brazilian prison system, as declared by the Federal Supreme Court (STF).

With regard to the measures taken to strengthen the National Mechanism to Prevent and Combat Torture (MNPCT), it must be noted that its budget was supplemented in 2023. According to the budgetary planning presented by the collegiate body, the requested amount of R\$ 514.662,00 was added to its budget in order to carry out its activities.

The competence of the Ministry of Human Rights and Citizenship to provide technical, financial and administrative support to the MNPCT is set by Decree n. 8.154 of December 16, 2013, which regulates the functioning of the National System for Preventing and Combating Torture and the National Committee for Preventing and Combating Torture and provides for the Mechanism.

It should also be noted that the MDHC's National Secretariat for the Promotion and Defense of Human Rights continues to seek strengthening the National System for Preventing and Combating Torture by means of measures such as:

- Preparing to issue a call for tenders to select new MNPCT experts, with the goal of counting with all 11 experts, thus leaving no vacancies;
- Holding a public call process for the election of civil society members of the CNPCT;
- Rearticulating the National System for Preventing and Combating Torture in 2023, with an expanded meeting planned for 2024;
- Institutionally coordinating the creation and/or the strengthening of state level Systems for Preventing and Combating Torture;
- Supporting the implementation and the strengthening of state level Systems for Preventing and Combating Torture, along the lines of the Optional Protocol to the UN Convention Against Torture (OPCAT);
- Mapping the state level Systems for Preventing and Combating Torture (expected to be launched in the second half of 2024);
- Carrying out, since 2023, the Human Rights Caravans, a project that seeks to assist in matter of policies concerning Brazilian penitentiary and socio-educational units that have been the object of provisional/precautionary measures within the Inter-American Court/Commission of Human Rights.

Taking into account that prison administration in Brazil is by law decentralized and that there are over 1,350 prison facilities in the country, in order to gather more specific information concerning particular instances of reported irregularities it is important that information and address requests specify the facility where they took place as opposed to solely singularizing their state.

Within the scope of the National Council of Justice (CNJ), it is appropriate and necessary to inform that, since 2021, it has carried out four joint missions to oversee the conditions of sentence execution and of deprivation of liberty in prisons in the states of Ceará¹ (December 2021), Amazonas² (May 2022), Pernambuco³ (August 2022) and Goiás⁴ (May/June 2023). Their mission reports are available in Portuguese and may be accessed by following the hyperlinks indicated in this page's footnotes.

With regard to the measures adopted in the state of Piauí on providing access to food to persons deprived of their liberty, the Piauí State Secretariat of Justice (SEJUS/PI) reported that the provided nourishment is in line with the international standards and with national parameters determined by DEPEN, considering Resolution n. 3 of October 5, 2017 of the National Council for Criminal and Penitentiary Policy, which recommends a total energy value (VET) of 2,000 kcal/day, according to the Food Guide for the Brazilian Population. In this way, the state's prison facilities are providing the appropriate amount of calories to maintain the inmates' nutritional status⁵.

Regarding the supply of meals, the state of Piauí reports that it follows the operational logistics of each prison facility. Before 2023, there were no nutritionists allocated in each of the prison units in the state of Piauí, a situation that was changed that year with the hiring of more than 12 qualified professionals registered with their respective councils to take on the technical responsibility of the Food and Nutrition Units (UANs). Currently, all prison units in Piauí have a nutritionist responsible for managing the food and nutrition service. The menus are drawn up taking into account the average

¹ Report available in Portuguese at: <https://www.cnj.jus.br/wp-content/uploads/2022/03/relatorio-inspecoes-estabelecimentos-penais-tjce-dmf-08032022.pdf>

² Report available in Portuguese at: <https://www.cnj.jus.br/wp-content/uploads/2022/12/relatorio-de-inspecoes-estabelecimento-prisionais-do-estado-do-amazonas.pdf>

³ Report available in Portuguese at: <https://www.cnj.jus.br/wp-content/uploads/2024/02/relatorio-de-inspecoes-tjpe-marco-2022.pdf>

⁴ Report available in Portuguese at: <https://www.cnj.jus.br/wp-content/uploads/2024/02/relatorio-de-inspecoes-goias-v4-29-08-2023.pdf>

⁵ Specific document scans concerning governmental planning for access to food in prison facilities in the state of Piauí has been submitted by SEJUS/PI in Portuguese. The file may be found attached as "Annex II" and is of supplemental nature.

kcal demand of the inmate population of each prison unit, the necessary nutritional adaptations for inmates with pathological conditions requiring adapted nutrition and the availability of offered foodstuffs. It should also be noted that the nutritionists are involved in drafting the terms of reference required for acquiring the food to be made available in the facilities.

With regard to the water supply and quality in prison facilities in Piauí, most of the state's units are supplied by public service concessionaires (Águas de Teresina and Agespisa), with the assistance of artesian wells to supplement other basic needs.

On the same topic, the SEJUS Engineering Coordination reports that the prison facilities located in the municipality of Teresina (the state capital) are supplied by the concessionaire AEGEA – Águas de Teresina, which is in charge of supplying water to the facilities and controlling its physical, chemical and microbiological treatment. In the prison facility located in the city of Parnaíba, the same service is provided by the state company Águas e Esgotos do Piauí – Agespisa, which is the company in charge of water supply and basic sanitation in all other municipalities of Piauí. The water supply in the units located in the municipalities of São Raimundo Nonato, Bom Jesus, Floriano, Oeiras, Picos, Campo Maior, Altos and Esperantina use artesian wells to supply drinking water. The disinfection process is carried out using chlorine dosers, guaranteeing the minimum standards for consumption, in accordance with Ordinances n. 2.914/2011 and n. 518/2004.

On specific measures adopted to address the challenges associated to access to food and water in Brazilian prison facilities on a national level, the National Council of Justice has reported two updates. In anticipation of the health and food concerns faced by the prison system, on December 20, 2023, the CNJ met with the National Rural Apprenticeship Service (SENAR) to plan actions aimed at educating and promoting food and nutrition security. As a result, the Council drafted an agreement that provides for the preparation of work plans for the implementation of projects and activities related to said commitment, while also observing the regulations that confer the right to balanced and healthy food as a public health condition for people deprived of their liberty.

The CNJ will carry out inspections and share diagnoses of the food security situation in prisons at national, regional and local levels, so that proposals for programs and actions aimed at prison food security will be articulated and formulated by the organ together with other public entities and civil society organizations. The National Rural

Apprenticeship Service, for its part, will carry out a feasibility study for training courses for persons deprived of their liberty. With the support of the CNJ, it will also plan and carry out training courses and provide technical and managerial assistance for former inmates.

Secondly, a more far-reaching initiative to tackle this structural problem is the formulation of a National Plan to tackle the unconstitutional state of affairs in Brazilian prisons, as declared by the Federal Supreme Court. The plan, entitled “Just Sentence: National Plan for Tackling the Unconstitutional State of Affairs in Brazilian prisons – ADPF 347”⁶, was drawn up jointly by the CNJ and the Federal Government, in dialogue with the relevant institutional bodies and civil society organizations. The plan includes indicators to monitor its implementation over a period of up to three years, according to a timetable set out in an implementation matrix.

The “Just Sentence” plan is the result of a ruling on the merits by the Federal Supreme Court in ADPF 347 (Claim for Failure to Comply with Fundamental Precept action 347). In order to draft, manage and monitor the national plan, on April 16, 2024, the Committee for Confronting the Unconstitutional State of Affairs in the Brazilian Prison System was established, published in Joint Ordinance MJSP/CNJ n. 8/2024.

The National Plan, which was submitted to the Federal Supreme Court on July 9, 2024, is divided into four axes. The second axis, “Quality of the prison environment, services and structures”, specifically addresses the issue of water and food security for persons deprived of their liberty. Of the five structural problems tackled within this axis, four directly address the issue: “Problem 1: inadequate prison architecture; Problem 2: Low supply and poor quality of services provided in prisons; Problem 3: torture, inhuman, cruel and degrading treatment of persons deprived of liberty; Problem 4: lack of transparency and effective channels for reporting prison problems”. In a brief summary of the actions proposed to respond to these structural issues, the following merit particular interest:

Qualifying the habitability of prisons by guaranteeing access to drinking water;

⁶ BRASIL. Supremo Tribunal Federal. Arguição de Descumprimento de Preceito Fundamental – ADPF n. 347/DF (Supremo Tribunal Federal, Pleno. ADPF n. 347 MC/DF. Relator Min. Marco Aurélio; Redator do Acórdão Min. Luís Roberto Barroso. DJ. 9/9/2015). Disponível em: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4783560>

lighting and ventilation; basic sanitation; hygiene and cleaning conditions; safety and health; occupation area; issuance of an operating permit and health surveillance. With the following general goals that are immediately relevant to the issue at hand:

a) Carrying out a National Habitability Diagnosis Task Force based on the new judicial inspection methodology (Code 2.1.2.1.1);

b) Drawing up State Maintenance and Adjustment Plans for prisons (Code 2.1.2.1.2);

c) Carrying out the 2nd National Habitability Diagnosis Task Force based on the new judicial inspection methodology to assess Adjustment Plans and establish adjustment and accountability measures (Code 2.1.2.1.3);

d) Issuing operating permits and health surveillance licenses for prisons (Code 2.1.2.2.1).

Instituting measures for food and nutrition security in prisons. With the following general goals that are of immediate interest to the issue at hand:

a) Elaboration of the National Program for Food and Nutrition Security in the Prison System, in accordance with the Food Guide for the Brazilian Population (Code 2.2.1.1.1);

b) Implementing the National Program for Food and Nutrition Security in the Prison System in all 27 Federative Units, ensuring access to food based on specific needs related to cultural and religious issues, based on the self-declaration of the person deprived of their liberty (Code 2.2.1.1.2).

The description of each of the aforementioned goals also includes the delineation of the strategic actors required to achieve them, the indicators for assessing progress and a code for monitoring the indicator.

The “Just Sentence” national plan is pending Supreme Court approval. Once sanctioned by the STF, the various goals that make up the actions must first be implemented at federal and state level within three years (state and district plans must mirror the structure of the national plan). To this end, “Just Sentence” provides for the

formation of unprecedented instances of inter-institutional governance between the CNJ and the Federal Government, as well as for the monitoring and inspection by the CNJ, with the supervision of the Supreme Court.

In summary, the National Plan represents the joint vision of proposals and guidelines drafted by the CNJ, in conjunction with the Federal Government, judicial institutions and civil society, with the goal of addressing the unconstitutional state of affairs in the prison system – including most of the concerns presented by the Special Rapporteurs - , as declared by the Federal Supreme Court.

Finally, the Federative Republic of Brazil restates its commitment to presenting information for a diagnosis on access to food, nutrition and drinking water in Brazilian prison facilities, remaining available for further clarification or additional reporting.

The State of Brazil also takes this opportunity to reaffirm its unwavering commitment to the protection of human rights and to continuing to adopt comprehensive measures aimed at ensuring that human rights standards are respected within the prison system.

List of attachments:

Annex I - I National Overview of Access to Food and Water in the Brazilian Prison System

Annex II – Supplementary information: Piauí State Secretariat of Justice – nutritional table