

TECHNICAL INFORMATION SHEET
CASE 12.426 AND CASE 12.427 EMASCULATED CHILDREN OF MARANHÃO
FRIENDLY SETTLEMENT REPORT N° 43/06
FULL COMPLIANCE
(BRAZIL)

I. SUMMARY OF THE CASE

Victim (s): Raniê Silva Cruz, Eduardo Rocha da Silva and Raimundo Nonato da Conceição Filho
Petitioner (s): Padre Marcos Passerini Center for the Defense of the Rights of Children and Adolescents and the Center for Global Justice (CJG)

State: Brazil

Report on Friendly Settlement Agreement No.: [43/06](#) published on March 15, 2006

Related Rapporteurship: Rights of Children.

Topics: Right to life/ Right to a fair trial/ Rights of the Child/Right to judicial protection

Facts: In both complaints the petitioners alleged that the State of Brazil had violated the obligations arising under the American Convention on Human Rights and the American Declaration, by failing to adopt effective measures to end the practices of torture and murder of various children in the State of Maranhão and in its omission to investigate the events. The petitioners specifically indicated the disappearance of the boys Raniê Silva Cruz, Eduardo Rocha da Silva and Raimundo Nonato da Conceição Filho, in the city of Paço do Lumiar, and the fact that their bodies were found with marks of torture and castration of their genitals. They alleged unwarranted delay on the part of the local authorities in the search for the boys, and that the police enquiries to establishment of responsibility for the crimes were too slow and ineffective. They indicated that this was due to the lack of diligence of the police of the State of Maranhão and the failure of the Federal Police to intervene in the investigations in a timely manner.

Rights Alleged: The Petitioners alleged that the State of Brazil had violated Article I (right to life, liberty and personal security), VI (right to a family and to protection thereof), VII (right to protection for mothers and children) and XVIII (right to a fair trial) of the American Declaration of the Rights and Duties of Man, and Articles 4 (right to life), 8 (right to a fair trial), 19 (rights of the child) and 25 (right to judicial protection) of the American Convention on Human Rights.

II. PROCEDURAL ACTIVITY

1. On December 15, 2005, the parties signed a Friendly Settlement Agreement.
2. On March 15, 2006, the Commission approved the friendly settlement agreement in Report No. 43/06.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF THE FRIENDLY SETTLEMENT AGREEMENT

Clause of Agreement	Status of Compliance
I. ACKNOWLEDGMENT OF RESPONSIBILITY	
<p>1. The Brazilian State admits its responsibility in connection with Cases 12.426 and 12.427 in the following terms: The State of Maranhão recognizes the inadequate results produced by previous lines of investigation compared with its current status, and admits that mistakes and obstacles had prevented the necessary immediate resolution of the cases, due to structural shortcomings that existed in the security system at the time, the complexity of the facts, the <i>modus operandi</i>, the particular geographical distribution of the crimes, and technical improprieties in a number of investigative procedures that called for special efforts to establish the responsibility of the perpetrators and to prevent risk to children and adolescents.</p> <p>2. The public acknowledgement of responsibility of the Brazilian State as regards the aforementioned violations of human rights is to be made at a public ceremony held in the city of São Luís, Maranhão, on the occasion of the opening of the Integrated Complex Building for Protection of Children and Adolescents on December 15, 2005, in the presence of representatives of the federal and State authorities, the petitioners, and the beneficiary families.</p>	Total¹
II. PROSECUTION AND PUNISHMENT OF THOSE RESPONSIBLE	
The Brazilian State undertakes to expedite the prosecution of the confessed perpetrator at present in custody, in the framework of legal due process and respect for human rights, and assumes the commitment to take further steps, as appropriate, to investigate and punish other possible culprits.	Total²
III. REPARATION MEASURES	
III.1 Symbolic Reparation.	
1. The State of Maranhão shall set a plaque in symbolic homage to the murdered children at the Integrated Complex Building for Protection of Children and Adolescents to be opened at the public ceremony of acknowledgement of responsibility described in point 5 above.	Total³
III.2 Material Reparations.	
The Federal Union, through the Ministry for Cities, and the State of Maranhão, through the Secretariat for Cities, shall, within a period of 12 (twelve) months, include, at no cost, the beneficiary families in the Social Housing programs managed by the Ministry for Cities in their current areas of residence.	Total⁴
8.1 a. In the event it is impossible to keep the families in their current areas of residence, in keeping with the principle that all beneficiary families are to be treated equally, residents shall receive equivalent housing conditions, in consultation with each family in this situation.	Total⁵
b. The inclusion of the beneficiary families in the aforementioned programs and the possible presence of pre-existing technical factors, shall be without prejudice	Declarative Clause

¹ See IACHR, Annual Report 2007, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 156-172.

² See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

³ See IACHR, Annual Report 2007, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 156-172.

⁴ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

⁵ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

to the special allowance to be granted to the beneficiary families by the State of Maranhão pursuant to clause 10 of this Agreement.	
The Federal Union, through the Ministry of Social Development, and the State of Maranhão, through the Secretariat of Social Development, shall enroll the beneficiary families in their respective social programs, including their income transfer programs, in accordance with the specific eligibility criteria for each program.	Total⁶
a. The special allowance to be granted to the beneficiary families by the State of Maranhão pursuant to clause 10 of this Agreement shall not be deemed income for the purposes of the inclusion of the beneficiary families in the aforesaid programs.	Declarative Clause
The State of Maranhão, by authority of its legislature, shall, by way of compensation, pay a special monthly allowance of R\$ 500,00 (five hundred reals) to each beneficiary family over a period of 15 (fifteen) years. a. This monthly allowance shall be adjusted in line with the review index for state public servants.	Total⁷
Performance in full of clauses 8, 9, and 10 exempts the Brazilian State, be it the Federal Union or the State of Maranhão, from any other redress to the beneficiary families under the present Agreement.	Declarative Clause
a. The beneficiary families shall sign the present Agreement and, in so doing, undertake to waive their right to action against the Federal Union and the State of Maranhão. This waiver is subject to performance in full of clauses 8, 9, and 10.	Total⁸
IV. MEASURES FOR NON-REPITITION	
In the course of 2006, the Federal Union undertakes to include the State of Maranhão in the Program of Model Integrated Measures to Combat Sexual Violence against Children and Adolescents in the Territory of Brazil (PAIR), which is coordinated by the Special Secretariat for Human Rights of the Office of the President of the Republic; in conjunction with the Ministry of Social Development, Ministry of Health, Ministry of Education, Ministry for Sport; Ministry of Justice, and Ministry of Tourism; and in partnership with the International Labor Organization (ILO), USAID, and <i>Partners of the Americas</i> .	Total⁹
The State of Maranhão undertakes to continue implementation of the State Model System to Combat Sexual Violence against Children and Adolescents and the Inter-Institutional System of Anti-Drug Measures (SIAD) in the State of Maranhão, as defined by the respective state decrees.	Total¹⁰
In order to provide assistance to child and adolescent victims of sexual violence, as well as to their families, the State of Maranhão, through the Secretariat of Social Development, undertakes within six months to include the municipalities of São José de Ribamar, Paço do Lumiar, and Raposa in the Surveillance Program.	Total¹¹
Bearing in mind the specialized assistance required to deal with cases of violence against children and adolescents, the State of Maranhão, through the State Secretariat for Public Security, undertakes to:	

⁶ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

⁷ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

⁸ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

⁹ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁰ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹¹ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

a. Provide, within three months at the latest, training courses for civilian and military police to deal with crimes that involve children and adolescents;	Total¹²
b. Include violence against children and adolescents as a curricular subject of the Civilian and Military Police Training Course;	Total¹³
c. Establish regulations for and adopt, within six months, special procedures for dealing with incidents that involve child and adolescent victims, so as to avoid constraints in the initial assistance provided to victims;	Total¹⁴
d. Establish regulations for channeling more-complex incidents that involve children and adolescents reported at police stations of the so-called Great São Luís Region to the Office for Protection of Children and Adolescents (DPCA);	Total¹⁵
e. Reorganize and equip the police station of the Municipality of Raposa, Maranhão, so as to ensure that incidents concerning child and adolescent victims are appropriately dealt with;	Total¹⁶
f. Inaugurate and ensure the continued operation, with an effective professional staff, of the Official Technical Examination Center in cases of sexual violence against children and adolescents.	Total¹⁷
With a view to improving assistance available in schools for children and adolescents in Great São Luís and the use of schools for sporting and cultural activities, the State of Maranhão, through the State Secretariat for Education, undertakes to:	
a. Make arrangements, from February 2006 onward, to enable weekend sporting and cultural activities at all public schools in the municipalities of the Greater São Luís Region;	Total¹⁸
b. Coordinate with the National Union of Municipal Education Directors (UNDIME), in order to enable weekend sporting and cultural activities at schools in the municipal education network in Great São Luís;	Total¹⁹
c. Build, by the end of 2006, a middle school with at least six classrooms in the Maiobinha area, in Paço do Lumiar; and	Total²⁰
d. Conclude, within six months, construction of a middle school with 15 classrooms, as well as an elementary school with 12 classrooms, in Cidade Operária, in São Luís.	Total²¹
With the aim of enhancing the legal assistance provided by the Office of the Public Defender, the State of Maranhão undertakes to re-activate in 6 (six) months time, the nucleus of Paço do Lumiar with a call for applications, selection and appointment of a public defender.	Total²²

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared full compliance with the case and ceased monitoring of the friendly settlement agreement in its Annual Report 2008.

¹² See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹³ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁴ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁵ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁶ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁷ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁸ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

¹⁹ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

²⁰ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

²¹ See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

²² See IACHR, Annual Report 2008, Chapter III, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 162-175.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State provided reparations to the beneficiaries, through inclusion in social interest housing programs.
- The State of Brazil acknowledged its international responsibility in relation to the present case.
- The State provided reparations through the inclusion of the victims' families in social programs such as the "Bolsa Família".
 - As a result of Law No.8326/2005, the families of the victims covered in the friendly settlement agreement began to receive a special monthly allowance, as compensation, of R\$ 500.00 (five hundred reais), for a period of 15 years.
- The State unveiled a plaque commemorating the 28 victims.

B. Structural outcomes of the case:

- The state of Maranhão was included in the Program of Referential Integrated Actions for Combating Sexual Violence against Children and Adolescents in Brazilian Territory (PAIR). In addition, Maranhão has implemented the State System for Fighting Sexual Violence against Children and Adolescents, as well as the Inter-Institutional System for Anti-Drug Actions (SIAD).
 - The state of Maranhão included the municipalities of São José de Ribamar, Paço do Lumiar and Raposa in the "Sentinel" Program, currently called Service of Struggle against Abuse and Sexual Exploitation of Children and Adolescents.
 - The State undertook training courses for the military and civilian police for a response against crimes affecting boys, girls and adolescents, as well as the inclusion of the issue of violence against boys, girls and adolescents in the study plan of the military and civilian police program.
 - The State adopted a special procedure for attention in cases involving boys, girls and adolescent victims.
 - The State regulated the referral of cases of greater complexity in the Delegations of the so-called Region of Greater Sao Luis to the Delegation of Protection of Children and Adolescents
 - The Police Delegation of the municipality of Raposa-MA was restructured and equipped, in order to provide adequate attention to cases affecting children and teenage victims;
 - The State inaugurated the Official Expertise Center for cases of sexual violence perpetrated against children and adolescents
 - Sports and cultural activities were made possible in all schools of the state and municipal education network in the municipalities of the Greater Sao Luis Region.
 - An existing school was expanded in the area of Maiobinha, Paço do Lumiar, adding a pavilion for secondary education, with 12 classrooms, a computer, science and mathematics lab, auditorium and library. In addition, the secondary school has been built in the Ciudad Operária neighborhood, near the Universidade Estadual de Maranhão, with 12 classrooms, a computer and science lab, and a sports field; and the construction of the elementary school is in the tendering process.