

## **BARRIERS TO ACCESS TO JUSTICE: THE CASE OF THE FIREWORKS FACTORY EXPLOSION IN SANTO ANTÔNIO DE JESUS, BAHIA AND THE BRAZIL'S CONVICTION BY THE INTER-AMERICAN COURT OF HUMAN RIGHTS**

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### **ABSTRACT**

This article examines the barriers to justice for victims and families affected by the 1998 fireworks factory explosion in Santo Antônio de Jesus, Bahia, Brazil. The criminal case against the factory owners took 21 years to conclude, highlighting systemic delays in the Judiciary. The 11 de Dezembro Movement and the Human Rights Forum reported the case to the Inter-American Commission on Human Rights (IACHR), leading to Brazil's condemnation by the Inter-American Court in 2020 for violating Article 25 of the American Convention on Human Rights. Despite constitutional guarantees of free legal aid (Art. 5, LXXIV and LXXVIII), access to justice remains ineffective for marginalized groups. The case underscores the gap between legal provisions and their enforcement, particularly for hypo-sufficient populations. As argued by Bobbio, the challenge lies in political implementation rather than normative justification. The ruling against Brazil reflects failures to ensure timely justice, exposing limitations in the 1988 Constitution's framework. Cappelletti and Garth's theory—linking access to justice to the Welfare State—further contextualizes these shortcomings, revealing persistent structural inequalities in Brazil's legal system.

**Keywords:** Access to justice; Human rights; Fireworks factory; Inter-American Court

### **1. INTRODUCTION**

On December 11, 1998, in the municipality of Santo Antônio de Jesus, in the state of Bahia (BA), Brazil, a fireworks factory exploded, killing sixty (60) people, a group made up of 59 women and one boy. Of the female group of victims, 19 were girls. The structure of the factory consisted of tarpaulins spread across a farm pasture, where workers performed their activities.

The employees were not hired under any legal contract and received, informally, very low wages to conduct their activities. After 21 years of processing lawsuits related to the case in Brazilian Justice system, the Inter-American Court of Human Rights (IACHR), the body that makes up the Inter-American Human Rights System of which Brazil is a member, decided to convict the country for violating Article 25 of the American Convention on Human Rights, ratified by Brazil in 1992.

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Article 25 provides for the judicial protection of all jurisdictions in signatory countries of the Convention, as well as the right to quick and speedy remediation procedures, in the event of violations of their fundamental rights. According to Bobbio, the issue of fundamental rights today lies in the limitations brought about by the political context.

## **2. THE CASE OF THE SANTO ANTÔNIO DE JESUS FIREWORKS FACTORY**

The case of the Santo Antônio de Jesus fireworks factory refers to an explosion that occurred in the municipality of Santo Antônio de Jesus, in the state of Bahia, Brazil, on December 11, 1998, claiming the lives of 59 women, nineteen of whom were girls and, one boy. According to the ruling issued by the Inter-American Court of Human Rights:

The Court found that the employees at the fireworks factory worked in precarious, unhealthy and unsafe conditions, in tents located in a pasture area, which failed to meet minimum safety standards and to provide conditions that could allow work accidents to be avoided or prevented.

The ruling stated that the fireworks factory was granted a permit from the Ministry of the Army in 1995, such permit being valid

until December 31, 1998, as the institution is the competent authority to regulate this type of activity in Brazil. It was also noted that the municipality of Santo Antônio de Jesus also allowed the installation of the aforementioned factory. Said permit enabled the company to store 20,000 kilograms of potassium nitrate<sup>3</sup> and 2,500 kilograms of black powder<sup>4</sup>.

The complaint<sup>5</sup> was taken to the Inter-American Commission on Human Rights on December 3, 2001, by the 11 de Dezembro (Portuguese for “December 11”) Movement, Brazilian NGO Justiça Global, the Human Rights Forum of Santo Antônio de Jesus, Bahia, Ailton José dos Santos, Yulo Oiticica, and Nelson Portela Pellegrino.

### **a. VIOLATION OF ARTICLE 25 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS**

The explosion of the fireworks factory led to the initiation of a number of lawsuits, filed against the owners and employees of said factory, at the administrative, criminal, civil and labor levels, as well as against the Federal Government, the state of Bahia, and the municipality of Santo Antonio de Jesus. This article will demarcate only the criminal procedural aspects, as the other areas of activity

<sup>3</sup> Available at: <https://material-properties.org/pt-br/nitrato-de-potassio/>. Retrieved: 10/24/2023.

<sup>4</sup> Available at: <https://conceitosdomundo.pt/polvora/>. Retrieved: 10/24/2023.

<sup>5</sup> Available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_42\\_7\\_por.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_42_7_por.pdf). Retrieved: 10/1/2023.

of the Judiciary have specific characteristics and procedures.

Considering the date of the explosion, which occurred on December 11, 1998, and the date of the criminal complaint from the Public Prosecutor's Office, which occurred on April 12, 1999, this initial phase, which sought to hold accountable those in charge of the factory, took place quickly. Nevertheless, it was only in 2004 that the Judiciary Branch of Bahia decided that the accused party was required to answer for the deaths and be submitted to a trial by jury. In 2007, the Public Prosecutor's Office of Bahia requested that the trial take place in the state capital, which was accepted. The reason for the request for the transfer from the District of Santo Antônio de Jesus to Salvador, according to Rosângela Santos Rocha, a former employee<sup>6</sup> at the fireworks factory and a family member of three deceased victims, occurred due to the family's political influence:

The trial [of the criminal proceeding] was going to take place here in Santo Antônio – it already had a defined date and everything – but because of the influence that this family has here, the courts themselves ordered that it should be transferred. [It was determined that] it would take place in Salvador, at the Ruy Barbosa Court. That is because there, the city of Salvador is aware of the case, but it was not connected to the Bastos family. Here, in Santo Antônio, they were [known], so it was a very risky trial, which could act in their favor.

It was only in 2010 that five people convicted of the deaths by the jury. With the filing of habeas corpus appeals between 2012, 2018 and 2019, the Justice Court of Bahia voided the conviction of one of the fireworks factory owners due to the statute of limitations.

The remaining convicts filed a habeas corpus appeal before the Superior Court of Justice (*Superior Tribunal de Justiça* – STJ), arguing that the defendants were not notified when considering the appeal against the sentences, which caused the lawsuit to return to the stage prior to the appeal stage, so that they could be reviewed again by the legal counsel of the convicted party. As of the publication of the ruling by the Inter-American Court of Human Rights (IACHR), issued on July 15, 2020, the appeals had not been considered by the Judiciary.

Brazil's signing of the American Convention on Human Rights in 1992 legitimized Brazil's internal demand for the rights provided for in the aforementioned international document. Consequently, the following wording is given for Article 25:

Article 25. Legal protection

1. All persons have the right to a **quick and speedy remediation** or any other effective legal remediation, before relevant judges or tribunals, protecting them against acts that violate their fundamental rights, as recognized by the Constitution, by law, or by this Convention, even when such violation is committed by persons acting in the exercise of their official duties.

<sup>6</sup> Available at: <https://www.reubrasil.jor.br/entrevista-com-rosangela-rocha-ex-trabalhadora-da-fabrica-e-familiar-de-tres-vitimas-da-explosao-sobre-o-caso-empregados-da-fabrica-de-fogos>.

[familiar-de-tres-vitimas-da-explosao-sobre-o-caso-empregados-da-fabrica-de-fogos](https://www.reubrasil.jor.br/entrevista-com-rosangela-rocha-ex-trabalhadora-da-fabrica-e-familiar-de-tres-vitimas-da-explosao-sobre-o-caso-empregados-da-fabrica-de-fogos). Retrieved: 10/24/2023.

Given the time lapse between the explosion (December 11, 1998), the complaint filed by the Public Prosecutor's Office of Bahia (April 12, 1999), the acceptance of the complaint by the Judiciary (November 9, 2004), the transfer of the criminal proceeding of Santo Antônio de Jesus to Salvador (November 7, 2007), the conviction of the five individuals indicted for the crimes – considering that the crime was time-barred for one of the factory owners – (October 20, 2010), and the assessment of the appeals (August 28, 2019), a period of twenty-one (21) years of procedural progress has elapsed without five of the six indicted the 60 deaths being effectively held accountable.

#### b. THE PROTECTION OF BRAZILIAN FUNDAMENTAL RIGHTS

Article 5, section LXXVIII, of the 1988 Federal Constitution of Brazil establishes that “All persons, at the judicial and administrative level, are guaranteed a reasonable duration for the proceeding and the means to guarantee a speedy processing.”

This fundamental right of the Constitution consolidates the dictates of the American Convention on Human Rights, as the inter-American document was created in 1969, while the Federal Constitution was signed in 1988, following the end of the dictatorship period in Brazil, bringing together similar rights

already existing within the scope of the Inter-American Human Rights System.

The case of the fireworks factory explosion in Santo Antônio de Jesus and the time of the criminal proceedings taken by the Brazilian Judiciary to punish those accountable exposed the violation of section LXXVIII of Article 5 of the Brazilian Federal Constitution, as well as the provisions of Article 25 of the American Convention of Human Rights.

The importance of a reasonable duration for the proceedings had already been defended by Beccaria, who states that

Of the utmost importance, therefore, is the proximity between the crime and the penalty, if it is to be that, in rude and uneducated minds, the seductive picture of an advantageous crime is immediately followed by the idea associated with the penalty. A long delay does nothing but nothing but produce the effect of increasingly dissociating these two ideas, as well as giving the impression that the punishment for a crime is less of punishment itself and more of a spectacle, which should happen only after the horror of a certain particular crime has been weakened among spectators, which should serve to reinforce the feeling of punishment. (BECCARIA, 1999)

The 1988 Federal Constitution was promulgated after 21 years of military dictatorship, and the constituent proceeding mobilized various Brazilian political and social forces to implement a list of fundamental rights that could promote a greater guarantee of rights for the Brazilian people.

Nevertheless, the provision of rights can only find limits in its implementation, given that mainly social rights require action from the State

through positive actions, which aim to promote access to such rights through its public policy.

Santos argues that,

In the transition from authoritarian regimes to democratic regimes, peripheral and semi-peripheral societies underwent what I refer to as a *historical short circuit*, that is, the consecration, in the same constitutional act, of rights that were conquered in central countries over a long historical process (hence the term of several generations of rights). (SANTOS, 2014) (emphasis added)

Given the assertion transcribed above, Santos problematizes the large number of rights contained in the constitutions of peripheral and semi-peripheral societies to justify that, given the state's inability to implement fundamental rights, the search for the judiciary tends to involve greater judicial intervention. In this case, we see that

The constitutionalization of such an extensive set of rights without the support of consolidated public and social policies makes it difficult to implement them, and opens up space for greater judicial intervention based on the control of the constitutionality of ordinary law. (SANTOS, 2014)

The ruling issued on July 15, 2020 by the Inter-American Court of Human Rights (IACHR) includes provisions related to violations of the fundamental rights of workers before and after the fireworks factory explosion, such as the right to life, equality, and the protection of children's rights and development, resulting in administrative, labor and reparatory actions within the scope of the Brazilian Judiciary.

In the case of this article, the focus is on the role of the Brazilian State as the competent

to criminally prosecute and convict defendants accused of the result of the explosion that claimed the lives of sixty people.

Consequently, the fundamental right listed in section LXXVIII of Article 5, which addresses the right to a reasonable processing of the lawsuit, was violated and this framework of violation of rights, supported by the American Convention on Human Rights, was sufficient to point out other violations.

Nevertheless, given the exhaustion of internal resources in the Brazilian Judiciary, given that the processing of criminal cases took a period of 21 years, when considering the date of the Court's ruling (July 15, 2020), it was possible to present to the attention of the Inter-American Commission on Rights Human Rights, and, subsequently, before the Inter-American Court of Human Rights, the body of evidence that demonstrated the time lapse in the criminal proceedings, resulting in the prescription of the penalty for one of the convicted.

### c. THE JUSTIFICATION OF FUNDAMENTAL RIGHTS

According to Bobbio, "the fundamental problem in relation to human rights today is not so much justifying them, but rather protecting them. This is not a philosophical issue, but a political one" (BOBBIO, 2004).

In the lesson for the search for the existence of an absolute foundation of human rights, Bobbio asserts that human rights, which



we identify here as fundamental rights, would be justified, since, in the process of expanding the rights of man, particularly following the Universal Declaration of Human Rights, promoted among societies the recognition of the importance of the legal provision of such rights, which would, therefore, be justified (BOBBIO, 2004).

In this context, the author argues that the current issue of protecting fundamental rights would be linked to political, as opposed to philosophical, issues.

The positivization of fundamental rights in Brazil, when applied to the case of the fireworks factory, approaches the political issue of protecting such fundamental rights, considering that no inspection was carried out since the Ministry of the Army authorized the handling of materials for the manufacture of fireworks, as well as in the period from the issuance of the permits by the municipality of Santo Antônio de Jesus, on December 19, 1995, to the day of the explosion, on December 11, 1998.

Thus, the ruling argues that:

However, from the registration of the fireworks factory to the moment of the explosion, there were no news regarding any inspection activities conducted by state authorities, either with regard to working conditions or with regard to the control of hazardous activities. In this sense, the State argued, at the public hearing held in 2006 before the Commission, that it had failed to

inspect the Santo Antônio de Jesus fireworks factory.

The issuance of operating permits, despite being regulated in the specific legislation, without any inspection, was not sufficient to predict or mitigate the risks related to the handling of highly explosive elements.

The complaint offered by the Public Prosecutor's Office of Bahia stated, based on civil police investigations, that "the owners of the factory were aware that it was dangerous and could explode at any moment and cause a tragedy and, although they had been granted a permit from the Ministry of the Army, activities were conducted 'irregularly.'"<sup>7</sup>

The submission of the case relating to the fireworks factory explosion to the Inter-American Commission on Human Rights was taken by civil society on December 3, 2001 in the context of impunity and followed the provisions of the American Convention on Human Rights itself, in its Article 44:

Article 44 – Any person or group of persons, or a non-governmental entity legally recognized in one or more Member States of the Organization, may submit to the Commission petitions containing allegations or complaints of violation of this Convention by a State Party.

The Inter-American Commission on Human Rights, in turn, submitted it to the Inter-American Court for consideration and judgment

<sup>7</sup> Item 118 of the ruling. Available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_427\\_por.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_427_por.pdf). Retrieved: 10/1/2023.

on September 19, 2018. The time delay between one instance of the Inter-American System and the other was just over 7 years.

The “political issue” brought up by Bobbio regarding the protection of fundamental rights, as we call it, can also be verified in the Inter-American Human Rights System, since even in the face of the violation of Article 25 of the American Convention on Human Rights, the Inter-American Commission on Human Rights, following receipt the petitioners’ complaint, took 7 years to submit the case to the Court.

During the 7 years spent by the Inter-American Commission on Human Rights, a Public Hearing was held before the Commission, to recognize the accountability and a friendly solution alongside Brazil on October 19, 2006. Nevertheless, on October 18, 2010, the petitioners, given the inertia of the Brazilian State in implementing the agreed measures, submitted a request to the Commission for the suspension of the friendly settlement and petitioned for the issuance of a merit report for submission to the Court. Given the procedural progress of the complaint at the Commission, five years later, the petitioners reiterated the issuance of the merit report, which took place on December 17, 2015. The Admissibility and Merit Report was issued on March 2, 2018, with the Brazilian State being notified on June 19 of

the same year. After processing in the Court, the Brazilian state was convicted on July 15, 2020.

### **3. BARRIER TO ACCESS TO JUSTICE**

Access to justice, as a right, constitutes an instrument that breaks the logic of liberal states, in which formal law was sufficient in itself to be available to people. With the constitutions of the Welfare State, it is observed that the promotion of rights in order to foster material equality brought new rights and new ways of exercising such rights.

According to Cappelletti and Garth,

It is not surprising, therefore, that the right to effective access to justice has gained particular attention as welfare state reforms have sought to arm individuals with new substantive rights in their capacity as consumers, renters, employees, and even citizens (CAPPELLETTI and GARTH, 1998).

Article 5 of the 1988 Federal Constitution of Brazil provides that the State must promote access to justice for those in need. Section LXXIV states that “the State must provide full and free legal aid to those who prove to have insufficient resources.”<sup>8</sup>

The same Article 5 of the Constitution, in section LXXVIII, states that “all persons, at the judicial and administrative level, are assured a reasonable duration of the lawsuit and the means that guarantee the speed of its processing.”<sup>9</sup> The

<sup>8</sup> 1988 Federal Constitution of Brazil. Available at: [www.planalto.gov.br](http://www.planalto.gov.br). Retrieved: 1/10/2023.

<sup>9</sup> 1988 Federal Constitution of Brazil (item added by Constitutional Amendment No. 45, of 2004). Available at: [www.planalto.gov.br](http://www.planalto.gov.br). Retrieved: 9/30/2023.

criminal cases related to those held accountable for the explosion of the Santo Antônio de Jesus fireworks factory took twenty-one years, when considering the date of the ruling by the Inter-American Court of Human Rights (IACHR) and the reassessment of the appeal filed by the attorneys of the five convicted defendants. This long process even resulted in one of the defendants benefiting from the statute of limitations.

The formal provision of rights did not prove sufficient for the victims of the fireworks factory explosion, as the processing of cases for a period spanning over decades could not possibly promote a sense of justice for all those affected by the accident. “Moreover, it is important to recall the role of jurisdiction in society, namely the pacification of conflicts.”<sup>10</sup>

The victims were poor, according to the ruling by the Inter-American Court of Human Rights (IACHR),<sup>11</sup> earning fifty Brazilian centavos (R\$0.50, or roughly \$0.10 in 2024 values) for the production of one thousand units (1,000) of “*traques*” (firecrackers).<sup>12</sup>

The United Nations (UN), through the Commission on the Legal Empowerment of the Poor, established a document of Guiding Principles “Extreme Poverty and Human Rights: The Rights of the Poor.” In it, the universal system of human rights considers that poverty affects the poorest, who are subjected to terrible working conditions and lack of access to justice.<sup>13</sup>

The Guiding Principles in item 67 determine:

Persons living in poverty are often unable to access justice or to seek redress for actions and omissions that adversely affect them. They encounter a variety of obstacles, from being unable to successfully register initial complaints owing to costs or legal illiteracy, to court decisions in their favor remaining unimplemented. Power imbalances and the lack of independent, accessible and effective complaint mechanisms often prevent them from challenging administrative decisions that adversely affect them. Without effective access to justice, they are unable to seek and obtain a remedy for breaches of domestic and international human rights law, exacerbating their vulnerability, insecurity and isolation, and perpetuating their impoverishment.

<sup>10</sup> QUEIROZ, L. S. Prelúdio do Acesso à Justiça aos Vulneráveis no Brasil. R. Defensoria Públ. União. Brasília, DF. União. Brasília, DF. n. 15, p. 1-312. Jan/Jun. 2021

<sup>11</sup> Available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_42\\_7\\_por](https://www.corteidh.or.cr/docs/casos/articulos/seriec_42_7_por). Retrieved: 1/10/2023. Item 71 of the ruling. Furthermore, they received very low wages and did not earn any additional amount for the risk to which they were subjected daily in their labor. As for payment for the work carried out, the workers received fifty Brazilian centavos (R\$0.50) for the production of a thousand firecrackers. The inhabitants of the municipality of Santo Antônio de Jesus worked at the fireworks factory due to the lack of

economic alternatives and due to their poverty condition. Employees at the fireworks factory had no access to the business work due to their lack of literacy and were not accepted to work in domestic service due to stereotypes that associated them, such as crime.

<sup>12</sup> An onomatopoeic expression that designates any click; clatter, or explosion. Available at: <https://www.dicio.com.br/traque/>. Retrieved: 10/23/2023.

<sup>13</sup> Available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/EPoverty/GuidingPrinciplesinPortuguese.pdf>. Retrieved: 10/23/2023.



The judicial trajectory of criminal cases shows that exemplary punishment within the law did not occur as determined by the country's legislation and by the American Convention on Human Rights, constituting an important barrier to effective justice. The petition presented to the American Commission on Human Rights was signed on December 3, 2001, by Justiça Global (based in the city of Rio de Janeiro, 1,475 kilometers away),<sup>14</sup> the Human Rights Commission of the Brazilian Bar Association (*Ordem dos Advogados do Brasil – OAB*), Salvador Subsection (headquartered in the city of Salvador, 191 kilometers away),<sup>15</sup> the 11 de Dezembro Movement, the Human Rights Forum of Santo Antônio de Jesus, Bahia, Ailton José dos Santos, Yulo Oiticica Pereira, and Nelson Portela Pellegrino, representing the victims.

If we consider that the Empowerment of the Poor emancipates them, it is possible to see that, in this case, it was necessary to seek external stakeholders to articulate the victims' representation before the Inter-American Commission on Human Rights, outside the context of the social reality of Santo Antônio de Jesus. The 11 de Dezembro Movement and the Human Rights Forum of Santo Antônio de Jesus were the only local participants in the proceedings. The other representations are not

based in the city of the tragedy, and it was not possible to verify in the ruling whether there were any gains from the standpoint of empowering local civil society organizations with the contribution of external support.

Baquero<sup>16</sup> notes that

Community empowerment, according to Perkins and Zimmerman (apud HOROCHOVSKI and MEIRELLES, 2007), is the process by which the subjects – individual or collective stakeholders – of a community, through participatory processes, develop actions to achieve their collectively defined objectives (BAQUERO, 2012).

The 11 de Dezembro Movement was established around the agenda of demands for justice and redress, seeking social and political leadership given the relevance of the topic. The former employee<sup>17</sup> and family member of three fatal victims of the explosion, describes the 11 de Dezembro Movement as follows:

It is a movement that, at no time, despite all our suffering and impunity, has been silent. It never stopped being resilient. It has continuously fought for life and for human rights. Other explosions did not occur in Santo Antônio de Jesus, because these family members and partners who came to Santo Antônio [stayed here] until late at night, working with the Federal Police and the Public Prosecutor's Office, to show where the materials were, to enable this fight.

When the Movement began to understand that this was not our duty, but rather that of the Public Prosecutor's Office and the Army, we retreated and became a symbol of the struggle in Santo Antônio de Jesus, within Brazil. They never acknowledged their responsibility, however. It got to the point where we held a hearing in the United States and [in Costa Rica], so that these determinations could be made.

<sup>14</sup> Available at: <https://www.invertexto.com/distancia-entre-cidades>. Retrieved: 10/23/2023.

<sup>15</sup> Available at: <https://www.invertexto.com/distancia-entre-cidades>. Retrieved: 10/23/2023.

<sup>16</sup> BAQUERO, Rute V. A. REVISTA DEBATES, Porto Alegre, v. 6, no. 1, p.173-187, Jan.-Apr. 2012.

<sup>17</sup> Available at: <https://www.reubrasil.jor.br/entrevista-com-rosangela-rocha-ex-trabalhadora-da-fabrica-e-familiar-de-tres-vitimas-da-explosao-sobre-o-caso-empregados-da-fabrica-de-fogos/>. Retrieved: 1/10/2023.

In the perception of the interviewee, who was president of the 11 de Dezembro Movement at the time of the interview (December 1, 2020), the movement never stopped fighting for justice and denouncing the facts related to the explosion, thereby demonstrating that, despite having obtained support from outside the city, exercise a true process of community empowerment. According to Ferreira, “the theory of political mobilization understands that movements are political because the people who participate in them are exercising politics, and not because they are part of the political elites who vie for power” (FERREIRA apud GOHN).

The actions of the 11 de Dezembro Movement are close to the theory of political mobilization given its agenda and articulation, which supports external partners so that the case

could be taken to the Inter-American Court of Human Rights.

#### a. THE EXECUTION OF THE COURT’S RULING TODAY

The ruling issued by the Inter-American Court of Human Rights (IACHR) has various determinations<sup>18</sup> to be fulfilled by the Brazilian state, such as monetary compensation, psychological assistance for the victims’ families, and public recognition of the State’s omission. In order to learn about the current status of the terms of the sentence, we submitted a request (NUP number 00105.011359/2023-39) under the Brazilian Access to Information Act (*Lei de Acesso à Informação – LAI*), to the Ministry of Human Rights and Citizenship on September 27, 2023. On October 18, 2023, the Ministry issued a manifestation on the need to

<sup>18</sup> 10. The State shall continue the ongoing criminal proceedings to judge within a reasonable period of time and, where applicable, punish those held accountable for the explosion of the fireworks factory, in accordance with paragraph 267 of this Ruling. 11. The State shall continue the civil lawsuit for compensation for moral and material damages, as well as the labor lawsuit still in progress, in order to conclude them within a reasonable period of time and, where applicable, promote the complete execution of the sentences, in accordance with paragraph 268 of this Ruling. 12. The State shall offer, free of charge and on a timely basis, medical, psychological or psychiatric treatment, where applicable, to the victims of this case who request it, in accordance with the provisions of paragraph 272 of this Ruling. 13. The State shall provide, within a period of six months from the notification of this Ruling, the publications mentioned in paragraph 277 of the Ruling, in the terms therein set out. 14. The State shall produce and disseminate materials for radio and television, in relation to the facts of this case, in accordance with paragraph 278 of this Ruling. 15. The State shall carry out a public act of recognition of international accountability, in relation to the facts of this case, in accordance with

paragraph 281 of this Ruling. 16. The State shall systematically and periodically inspect fireworks production sites, in accordance with paragraph 287 of this Ruling. 17. The State shall submit a report on the progress of the legislative processing of the Brazilian Federal Senate Bill PLS 7433/2017, in accordance with paragraph 288 of this Ruling. 18. The State shall prepare and execute a socioeconomic development program, in consultation with the victims and their family members, with the aim of promoting the insertion of workers dedicated to the manufacture of fireworks in other job markets and enabling the creation of economic alternatives, in accordance with paragraphs 289 to 290 of this Ruling. 20. The State shall pay the amounts defined in paragraphs 296, 303 and 312 of this Ruling, as compensation for material damage, immaterial damage, and costs and expenses, in accordance with paragraphs 296, 297, 303, 304, 312 and 313 to 317 of this Ruling. 21. The State, within a period of one year, counting from the notification of this Ruling, shall submit to the Court a report on the measures adopted to comply therewith, notwithstanding the provisions of paragraph 277 of this Ruling.

extend the deadline<sup>19</sup> for the response to October 30, 2023, to consider the request with “complexity in developing a response.”

The need for more time to comply with the request may demonstrate that the sentencing terms have not been effectively fulfilled.

#### **4. CONCLUSIONS**

The case of the fireworks factory explosion in Santo Antônio de Jesus, in the state of Bahia, Brazil, has led to Brazil being convicted by the Inter-American Court of Human Rights (IACHR), following a ruling issued on July 15, 2020, after 7 years of processing at the Commission and within the Court.

Civil society’s justification to take the case to the Human Rights Commission consisted of the twenty-one (21)-year period during which the criminal cases were processed in the Brazilian Judiciary. According to the Inter-American Court, the competent authority to judge the States Parties, the case was marked, among other breaches, by the violation of Article 25 of the American Convention on Human Rights, ratified in 1992.

Said article provides for quick and speedy access to justice for citizens of signatory countries of the American Convention. Moreover, there was a violation of items LXXIV

and LXXVIII, contained in the list of fundamental rights, in Article 5 of the 1988 Federal Constitution of Brazil.

The 11 de Dezembro Movement, established in Santo Antônio de Jesus, was created by family members of the victims of the explosion, with an agenda was based on the complaint and the coordination of partners, leading entities and political leaders to offer support to take the complaint to the attention of the Inter-American Commission on Human Rights.

The actions of the 11 de Dezembro Movement, with a demonstrated political agenda, came close to the concept “Empowerment of the Poor” developed by the United Nations, which considers social and economic aspects and access to justice to affirm that several actions must be carried out by the States that part of the Universal Human Rights System to realize people’s rights and dignity.

Even though the Court’s ruling contained several provisions, it was not possible to assess the execution of the aforementioned sentential commandments by the Brazilian state, as the request for information made through the Access to Information Act was extended after a 15-day deadline for another 10 days, as the Ministry of Human Rights and Citizenship, the body responsible for managing the decisions of the

<sup>19</sup> It should be noted that the request has been extended for another ten (10) days, considering that the unit is collecting the information necessary to provide a response

to the interested party, in accordance with Article 11, § 2 of Act 12,527/2011.

Inter-American Court, claimed that such issues are “complex” and that they would require more time for the information requested to be gathered, organized, and made available.

The response to the request for information from the Ministry could help us to advance in the research, so that we can identify whether the social mobilization of the 11 de Dezembro Movement extended to the post-ruling period, in order to monitor the execution of the sentencing terms. Although the violation of rights observed in the case of the explosion comprises a direct breach of fundamental rights, the materialization of such rights beyond their formal existence requires strong action via social mobilization.

## 5. REFERENCES

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