

The reality of the prisons according to the Prison Pastoral

INTERVIEW WITH FATHER VALDIR JOÃO SILVEIRA



Picture by Marilda Campolino – Folha Imagem 9.26.2000

Agents of the Prison Pastoral verified denunciations of overcrowding, violence and ill-treatments, in 2005, in Evaristo de Moraes Prison, Rio de Janeiro.

IN AN INTERVIEW to *ESTUDOS AVANÇADOS* journal on September 20th, Father Valdir João Silveira, who's the coordinator of CNBB's Prison Pastoral in the State of São Paulo, said that only a small part of the inmate population - "10%, if that much!" – belongs to criminal factions, such as the Primeiro Comando da Capital (PCC), for example. According to data from the National Penitentiary Department, which is tied to the Ministry of Justice, the total number of inmates in June, 2007 in Brazil was 419,551, between men and women, in the various regimes. According to him, in spite of that, the criminal factions still have power and command the prisons. "Due to the lack of structure in the prisons, they provide the assistance that the government doesn't provide [...] Since there's a lack of hygiene material and food, it's those organizations that provide this", he said.

The journey and the experience of Father Valdir in the social area began in the North region of Brazil. In the city of Santarém, in Pará, he acted with street gangs made up of minors who used to be in jail. With the support of the church and of local traders, he bought a house to shelter those who were expelled from the gangs and were targets of the police.

When he came to São Paulo to attend a specialization course in 1996, he became an agent of the Prison Pastoral in the East Zone of the city. In the year 2000, he began a visits program at Carandiru Complex, North Zone of São Paulo.

Since 2002, he's been the national Vice-Coordinator of the Prison Pastoral, and since 2003 he has coordinated the Prison Pastoral in the State of São Paulo.

The following interview was only possible thanks to the collaboration of sociologist Simone Cristina dos Santos, who has worked as executive secretary of CNBB's Prison Pastoral since the beginning of this year. (*Dario Luis Borelli*)

The absence of the government and the emergence of the factions within the prisons

ESTUDOS AVANÇADOS – About one dozen criminal organizations, such as the Primeiro Comando da Capital (PCC), act inside the prisons of the State of São Paulo. When you were interviewed by Agência Brasil, you claimed that those organizations occupy the institutional space left vacant by the government due to the absence of adequate policies. You were elected national Vice-Coordinator of the Prison Pastoral in November, 2002. In those almost five years of activities, what were the changes verified in the relationship between the Pastoral agents and the inmates as a result of the existence, within the prisons, of criminal factions, such as the PCC?

Father Valdir João - The Prison Pastoral had a great impulse in 1997, when the theme chosen for the Fraternity Campaign was “Jesus frees from all prisons”. In almost 10 years the inmate population both of the State and of the country doubled. What didn't keep up with the changes of this prison system were the structure and the functioning of the units.

The criminal groups and factions emerged due to the absence of the State: at a first moment, to protect themselves against the violence and the torture with which the State acted; later, to create an order among the inmates, since there was extortion, exploitation, and sexual violence of an inmate against another, so the crime structured itself to prevent all that disorder.

The factions that provided the minimum for survival, such as hygiene material or medicine, also assisted the inmates' family members. The lack of visit of a loved person, for those who depend on tickets to visit their relatives and do not have the money to buy them, makes the prison an even more violent place. So the factions were left with the task of filling the gaps, as well as obtaining a lawyer and social assistance. The government abandoned the prison and society as a whole, and the government here is understood as the Administrative, the Juridical, the Public Prosecution Service and the Legislative power as well, which turned their backs on the inmates. There was a speech in the prisons calling for more rigorous punishment, and the panic legislations were created.

Let's take a look in the administrative part: the overcrowding and the reduced staff; the unprepared and badly qualified employee. In most cases, the employee and the inmate come from the same social and geographic background, from the same populations, from the same neighborhoods; with different functions, one of them is an inmate and another one is his holder. What's missing? The training, the qualification in national level, mainly in terms of the inmate's reintegration, since the civil servant who works with the inmate acts as an educator to socially recover him. That has not been the case lately.

The Public Prosecution Service, which is required by law to inspect the prisons, turned its back on them, because they're overcrowded, with no food, hygiene conditions, water, medicine, or clothes. Without inspecting that, the Public Prosecution Service doesn't verify the situation, actually leading inmates to take care of one another.

The Court of Justice didn't assume the responsibility to execute the law concerning the judge who must make monthly visits to the prisons. In Brazil, this is a serious problem, mainly in the capital city of São Paulo. There, the inmate who obtains the semi-open regime is forgotten. There were 636 cases in a single unit in São Paulo, ensured by the semi-open law, which wouldn't have been respected. And so there are many people who have already obtained the semi-open regime by law and are still in the closed regime. That's a painful indignation for the inmates and is one of the great causes of rebellions that have been going on in several places in the country.

The Prison Pastoral's actions, in cases of rebellions, charge a lot from the Judiciary power. Dossiers about that are sent to Brasília and there's a demand for them to see those documents. Because the rights in the Justice are not respected.

The Legislative power must create laws for the prison system. In São Paulo, there was the creation of the RDD [Differentiated Disciplinary Regime] with the resolution of the administrative, and the Legislative didn't take a side. It let it work smoothly. Not only let, but it didn't inspect those regimes created either, as should be the case according to the law. It didn't interfere in any hypothesis, and today it's official because the federal law was approved.

There's still an extremely serious problem in our Legislative power: the prison system's hearings court wasn't created. What we still have is a resolution made by the secretary, which is a confidence post. The current secretary made way for that, with Condepe [State Council for the Defense of the Human Rights], which should indicate the justice of the peace. But there's still no law about that.

The so-called Penitentiary Council, which has the obligation of inspecting, also turned its back to the prison system. The Judiciary power should have created the Community Council in all judicial districts. It didn't, and now it's being forced to create it. Thus, there's a great omission by the Executive, the Administrative, by all powers. The inmate population doubled and the omission increased.

What has been advancing a little bit more in the State of São Paulo lately is the opening of the dialogue between the civil entities and the administrative side of the units. In the State of São Paulo, the organized human rights have access to the dialogue with the management and the administration of the prison units. The doors were open.

What has happened in the current government? Hardening by both sides with the charge of the lack of civil servants in the prison system. We have no control of the public security and the application of the RDD is very strict. There are many people being sued or discharged from their posts. All the denunciations of the prison system are being investigated, but any attitude by the inmate is also considered a serious offense. Anything the inmate does, takes him to the disciplinary regime. Anything that is said, any insubordination or claim of his rights eventually leads to punishment and may be suspect.

We have been seeing many people arriving in prison tortured, injured by the police during the arrest. But the issue is that the Police Corregidor's office is not investigating the cases and is very slow. We announced cases already two years ago, and only now we have been called to talk, when we have already lost contact with the inmate, and we no longer know where he lives. Therefore, that slowness of the Public Security Secretary is big, mainly in the operation organs. That's why violence in prison continues even stronger than before.

The Prison Pastoral doesn't deal with factions, but with the inmate

ESTUDOS AVANÇADOS – How does a pastoral agent inside the prisons have such flexibility to deal with the power relationship imposed by the members of the criminal factions? How does he reach the inmate, even the one who can't have direct contact with other people?

Father Valdir João – Today the internal changes in the prisons also try to listen to the inmates, which is positive! That's not bad, because they become aware of their rights and their duties too. A practical case in the prison system of São Paulo is the Central Hospital. Due to the escape attempts that took place, when they tried to escape by the tunnel three people died. The charge to the inmates became stricter. Before that, the family could visit and stay in the room, it entered the cells, there wasn't any employee in the room or in the hall with the family members. With the presence of the employees the inmates felt somewhat hindered to talk to their relatives.

What has the prison done due to the escape attempt? Now there will be employees present during the family visits, and, as a hospital, intimate visits in the cells will be prohibited. So the inmates reacted, with hunger strike and the refusal to take any medicine. On the other hand, the period of sun-bath was reduced, with only three hours per day. Previously, the sun-bath used to take place in the morning until noon and throughout the entire afternoon. Then,

with the hunger and medicine strike, the prison negotiated: “If you don’t take your medicine and you don’t eat we will prohibit the family visits during the weekends”. They became even stricter. The inmates backed out. By law, the sun-bath must last two hours per day, so they could negotiate. By law, intimate visits in a hospital are totally prohibited. So they were working with the limits, in a very practical way. The inmates accepted the family visits with a penitentiary agent staying in the courtyard: “The negotiation was made by consensus”.

In the scope of the Prison Pastoral, we never deal with factions but with the inmate himself. It’s worth noting that even today, when we think about the power relationship, it varies a lot from one unit to another. What has become common is to talk to an inmate and there is always someone listening

to the chat. It can’t be said that it’s someone rephending, verifying what can and what can’t be said. In the CDPs [Provisional Detention Centers], if an inmate sends us something written, there’s another inmate to read it before to say if the message can be delivered or not. But we walk along the wings, in the hallways or in the cells, and we talk to everyone.

In recent years, we have occupied a lot of space in the prisons. The pastoral has entered in all places where it seeks to enter. For example, we are allowed to go inside maximum security prisons, RDD everywhere. There’s no restriction at all for the pastoral agents. We can talk to the inmate where he is. We have not found obstacles neither from the prison nor from the inmates themselves. On the contrary, they like to talk



Picture by Moacyr Lopes Junior/Folha Imagem – 6.5.2002

Sentenced to five years for marijuana traffic in Paraguay, Brazilian inmate Reinaldo Novaes de Oliveira receives in jail the visit of Sister Olga Cecilia Pasqual, 82 years old, of the Prison Pastoral.

to us when there’s a complicated situation in the community, the punishment of the punishment, the insurance. Even when they say “Nobody will go in today”, we have managed to go in. There are some punctual cases. When that happens and some director impedes our entrance, we immediately call the Secretary and in the same day we already have an answer and we can already go in.

It's a policy for the civil society to visit the units, and the colleges should also make visits and studies. Above all, they should make partnerships to elaborate reintegration proposals. But the civil society is still very absent inside the prisons. There's also the absence of human rights entities that talk about the inmates but don't visit them. There are reports made by people who openly discuss the inmates and prisons, but who have never been to one.

Reality reflects the social conditions of the poor

ESTUDOS AVANÇADOS – Considering the lamentable conditions of the Brazilian prison system, do you believe in the possibility of recovering current and former inmates? Is it possible to avoid recidivism in crime and to offer options for the convicted person to recover?

Father Valdir João – There used to be the slave ships that brought the slaves to Brazil. Here we have the slave quarters. The prison is the continuity of the slave quarters. Who is the prison for? For the miserable class. The poor and miserable class. So, they came from the miserable class only to go back to its underground, and the chances they had before, which were already slim, now are even more reduced. The issue here is social, the prison is included within a context that can't be treated by means of isolated issues. Who offers jobs to the former inmates in the firms and industries? They don't! Not at all! So, how can we deal with reintegration if the society has turned its back on them? There is selective impunity, of the great corruption, what's the importance of that layer in relation to conventional crime? How does conventional crime see the great corrupts? With funds, press and government in the entire State. The small criminal will only have privileges when he gets over some crimes. That was what the historical and social culture conveyed to him. What is made of solutions? Palliatives.

The social aspect doesn't change and it won't change. A miserable layer with no education, no school, no job, won't have that inside the prison either! The inmates already arrived without knowing their rights outside, and they know that they have no chance. For someone who lives in a crowded slum, the cell is its continuity. For someone who is homeless, the prison is a continuity of the street. Someone who has never been respected in terms of health, transportation, dwelling, or job, will have the continuity of all that in the prison. The system is bad and bankrupt just like the miserable and bankrupt society. Therefore, there are no projects. The Prison Pastoral goes into the prison and its mission is to announce God's forgiveness individually, and always, despite everything, has hope. But as social agents, we're helping to maintain the system, it's much more structural!

There's that discourse that sees the poor inmate as lacking a greater knowledge of the law, of the punishment, a stricter prison. People ask for more rigorous punishments as if he was a person from society who made a mistake and must be severely punished. Another discourse sees the person who hasn't

followed the ethical principles due to a structure that produces such people. It's not a moral and individual issue, but a structural issue that produces that. For example, a proven figure: 70% of the inmates return to the prison system. And they will continue to return. What will his life be like when he comes out? Who will welcome the former inmate who has stayed some years in jail? Who? What firm accepts them? What society? What company? Therefore, while there's no change in the education model and that of mentalities, there will always be an overcrowded prison.

ESTUDOS AVANÇADOS – Do you share the opinion according to which most of the Brazilian people is not aware and neglects the inmates' reality in the prison system and that the Prison Pastoral is the only source of dialogue of the inmate with the rest of the world?

Father Valdir João – There's this voice in the society concerning the misery situation of the inmate. We have gone to the Justice, to the ministries in Brasília, we have addressed the congressmen, we have called out to the international organs about the misery situation of our prisons, about our situation. Therefore, we're a prophetic voice that has denounced all the wounds for a communication to take place, and we have also demanded the rights and proposed solutions. Even the palliative ones are necessary: if someone is sick, there must be medical assistance! If someone is hungry, they must eat! If he's under the tutelage of the government, he has the right to study, he at least has the right to dream about a better world out there. And out here the public policies are answers by the government. We too, as Church, as communities, commissions, universities, we're responsible for the way we live.

The University and its necessary commitment with the prison and social reality of the country

ESTUDOS AVANÇADOS – Would a solution be to invest more in facing the causes and less in the consequences of the criminal act?

Father Valdir João – That facing of the causes must go through the colleges, must go through the debate in the communities, because they have had many peace and fraternity experience nuclei that are very beautiful! And that must be better advertised and implemented throughout the country, because it's not enough to do as it has been done until today: public security is to ensure the patrimony of those who have it. We must change the laws and attack the causes. And that goes through the issue of the peasant, of the land; it goes through the crucial issue of education; it goes through the issue of the access to the public and better quality transportation. Now there's a public act for the issue of the flights, of the airports, but there's no public act to improve the transportation of the peripheries. There's no public act for that. The basic causes must be faced as a whole. The students should go to the squares and to the streets to call out against the corruption in the public and the national organs; they should make the lower classes aware of their

rights. For many colleges and schools, citizenship means taking a private school to visit a slum, or making soup to the poor. That's not citizenship. That's not citizenship! The miserable has had the access to citizenship blocked. Mechanisms must be created for the poor and the marginal people to have access to citizenship.

ESTUDOS AVANÇADOS – According to data from Depen [National Penitentiary Department], tied to the Ministry of Justice, the total of inmates in June, 2007 in Brazil was 419,551, among men and women, in the several regimes. In November, 2000, the inmate population in the prison system and in the police stations was 232,755. In less than seven years, there was an 80.2% increase. Is it possible to state that to make punishments stricter and to reduce the penal age, to enforce cruel punishments, such as the RDD, to apply in an indiscriminate manner the Law of Hideous Crimes, equalizing those who have committed a single crime to the very dangerous criminals, and to use electronic devices in convicted people may be measures that are used without success? Therefore, in that issue, you help us think about if that increase in strictness by the government is positive. How do you evaluate those issues?

Father Valdir João – Let's be very practical. Where did the attacks that took place in May, 2006 in São Paulo come from? The proposal is to take stricter measures, to combat violence with violence and more violence. That's the practical result of turning the punishments and the RDD stricter, the worry of the month of May. Those figures presented by Depen have grown, and if there's no judicial voice for alternative punishments, if there's no mediation of conflicts, if there's no restorative justice, those numbers will multiply even faster than we see today. Because each inmate has at least three more family members related to him: children, wife, parents. If those 420 thousand are multiplied by four, almost two million people are related to inmates. Here there's not only 420 thousand, but almost two million people who suffer the punishment of prison. Thus, at least two million people are affected, who are indignant with the injustices practiced to their families and that take place inside the prisons. We have no concrete proposal.

In the Judiciary power and in the government the proposal is the public security for those who already have security, is to create more federal prisons also for the selective inmates, the great leaders of criminal gangs. There was a meeting last week in the Federal House of Representatives: with policing each inmate in the Federal Police costs just over 7,800 dollars. Now, that should be applied in plans for education, unemployment, leisure and school.

The non-conventional crime is the one belonging to the higher spheres that are not punished. Before committing the crime, the possibilities of acquittal or not are taken into consideration. The individual goes back to the institution because there was never a punishment, where he has the corporate security of his friends, where the logic is "I can steal, I can embezzle, I can be corrupt". When I practice high corruption, that miserable class will see me and will acquit me

of my crime, mainly if I'm a politician, and that's what exist the most in Brazil. Its also a cultural issue of the violence. Every time that the impeachment was requested due to some law-suit, such as the issue of corruption, the law-suits were reviewed. The great exit voice was the Senate itself.

However, how does that reflect in the conventional inmate? He looks and notices how many of them, when convicted, go to different places and after that is even freed. The leader of groups has committed great atrocities, but goes to a special prison, to a certain extent, with good food, medical assistance and lawyers. If he's a politician, he might even walk away free.

Therefore, the cultural punishment takes place to the miserable person.

The national debate on the issue of the penal minority was a theme explored by the press after the violent death of the boy called João Hélio, in Rio de Janeiro. The debate calmed down when three middle class youngsters beat a maid and thought she was a prostitute: "I can beat a prostitute, there's nothing wrong about that". Who are those youngsters? Middle class minors who may also be arrested if the reduction of the full legal age is approved. "Let's stop the discourse, then." Suddenly, the entire debate on the penal minority halted, since the high middle class can also be punished with that.

ESTUDOS AVANÇADOS

– *The children of the Representatives themselves...*



Picture by Antônio Gaudério / Folha Imagem – 3.22.2006

Inmates from Franco da Rocha Penitentiary (Greater São Paulo) are grouped in the courtyard to be frisked.

Father Valdir João – As occurred with the issue of the Indian in Brasília. And, besides, there's fear: "Let's scare the population". The more the population is scared, more the electronic and domestic security industries will grow. In this year there were two security equipment fairs, with a profit estimate of almost 560 million dollars. For that reason, the press must make a massive advertisement of the crime, to sell more. We have the information about a survey that answers the question "Who are the owners of those electronic security materials here in São Paulo?". Those protection materials are selling very well. Therefore, the worse the situation, the greater the violence, the more is sold. As in the case of selling arms, there's a great commerce behind it and an ideology of fear in order to scare and to sell even more.

How the criminal factions organized themselves inside the prisons

ESTUDOS AVANÇADOS- When we started to read the Prison Pastoral's reports about torture and degrading violations, a case, in the Northeast, of inmates who drank water from the toilet called our attention. In the interview, when you claim that the criminal factions often correspond to the inmates' needs, are there many differences between the states in the Northeast and the other Brazilian states? When the factions in the Northeast started to emerge, did they use the State of São Paulo as a model? It would also be interesting to say if the inmates' transferences have any influence. How do you evaluate that reality? Is there still about a dozen factions?

Father Valdir João – That's what happens: in the State of São Paulo alone, we estimate about a dozen. But if two years ago you visited Santa Catarina and Espírito Santo, it was said that there were no factions there, but gangs, such person's gang. In Santa Catarina there were those people who led gangs. In the North region of Brazil, in some places, the gangs are in control. It's the same structure of the organized factions, but it's a different region. As I have said to you, the beginning of my job was with street gangs and in the sector places, each sector, each neighborhood was led by "its" gang. That crime terminology has changed a bit, but the organization is almost the same. It has increased because the crime organizes itself around the drugs and arms traffic (narcotraffic). They didn't start to spread because of the inmate who was transferred, who was displaced, that's not the case. The factions are better organized where crime and smuggling are better organized, where narcotraffic is. Where a group takes control of a vein of narcotraffic, that vein spreads all over Brazil. The relationships are according to the interest of the crime, of the narcotraffic, of the drugs and the arms.

ESTUDOS AVANÇADOS – How about torture? Those cases in which the PCC cuts the head off and quarters the person. It leaves there for everyone to see it, so that they won't waver, because if they do, that's what will happen. So, it eventually reproduces a system that they themselves question.

Father Valdir João – In the book, *The Prince*, by Machiavelli, there's a very similar situation. The prince always tries to show his humanitarian side to seduce and have the people's support. The organized factions work with very clear and specific laws, they punish much more than the government. The choice is essential, there's the humanitarian dimension, as they say. They are fraternal and really help each other, but those among them who commit the crime get the capital punishment, the death penalty. They don't acquit. Now, they really have been impeding the government torture in the prison. They oppose it and confront it. But they don't acquit among them.

It's very hard to make a diagnosis, because the people who belong to the groups are afraid to talk when they suffer an internal torture, as well as the victim. Not even their relatives are allowed to say anything. Since the

government has abandoned them long ago, historically, if they can't rely on local support, they will be subject to all the violence. So, they protect themselves, they remain silent, afraid to lose those who are holding and punishing with violence.

The prisons' administrations listen to the inmates in general. If the inmate makes a juridical, health or food complaint, the prison's administration must listen to him, it can't ignore the situation. As a Pastoral we ask the administration to address the inmates and see the reality inside, we ask the administration to see the situation. We ask a lot in this dialogue with the administration. If I have any complaint, I must go talk, that dialogue is necessary. We ask what is negotiated there to be respected there, that the law be obeyed. If the director doesn't know that there's a lack of water in the cells, he must know it, by omission that really happens a lot. The director doesn't know that the food is spoiled because he hasn't talked to the inmates; the medicine doesn't arrive there; the population is out of medicine, because the directors didn't go talk to the inmates. It's necessary for that closer relationship to take place, such as with the Judiciary power. The judge visits the prison, but he must also talk to the inmates. The inmate is convicted by the law, but he's a citizen who has lost his right to come and go. The law ensures that the powers must listen to him.

The reality of the inmates is not the reality of the criminal factions

ESTUDOS AVANÇADOS – Do you believe that there are many inmates who don't belong to the factions?

Father Valdir João – A very small part of them belongs to the organized factions. However, they lead the units. Due to the lack of structure of the prisons, they provide the assistance that the government doesn't. Only a very small percentage, around 10%, if that much!, I believe that maybe not even that much participates. Since there's a lack of hygiene material and food it's those organizations that try to provide them.

ESTUDOS AVANÇADOS – Do you believe that the government invests more in prisons than in education?

Father Valdir João – The government invests in the security of those who can afford it. The government wants to build an ever higher wall to avoid that the high and middle classes are affected by the lower class. For example, the security system created - PAC. Analyze it: it's almost entirely destined to improve the protection of those who already have it, and neglects the causes of delinquency, of misery, of hunger, of unemployment, and so on. Why is there more investment in security than in education? Also for those who are pressing (the Representatives) who want more funds for their States for public security. Watch it, public security for them, who can't be unprotected from their rights.

ESTUDOS AVANÇADOS – Would you like to say anything else about that?

Father Valdir João – How I would be pleased if the academic world participated in those issues! Not to join the proposals we already have, but to join the causes, not to arrive with the ready discourse and to ask what's already done and not to ask for more and less, to provide curative and patches to the system: “to improve the food of the guards, to provide more arms to the police, to build more prisons” – those are more and less measures and that won't change the situation, they're only patches. There's an absence of scientific proposals to revert the situation, and the university class has been very neglectful in that sense.

The Prison Pastoral's action inside the prisons

ESTUDOS AVANÇADOS – How do you evaluate the pastoral's action inside the prisons?

Father Valdir João – Even though a systematic work by the Prison Pastoral doesn't exist, the inmates say: “You have just arrived here and today much has already changed”. Sometimes it's about cleanliness, food, and attendance. Yesterday, in the place where I was, an inmate was saying: “I've been waiting for so many months, you arrived today and my answer arrived as well. Here the punishment was overcrowded. You were scheduled to arrive at ten and at eight in the morning everyone was being freed”. We have been receiving many letters saying that the inmates get more attention in the places where the pastoral visits. That's incredible! Our presence is not only to provide hope, but also to question and to demand new proposals, and it always works. When we arrive in a certain place the garbage is gathered quickly. Then they notice that it's the garbage, the cleanliness, the transference. Thus, the presence of the Pastoral really provides an immediate result. I believe that it was a respect conquered after a long time.

We are currently the only entity that visits the prisons every week, with a constant presence. We're the only entity in Brazil that does that. There are others that visit from time to time. In conflict situations, we're the only entity that both sides call to mediate. We're the ones who talk, who listen, who mediate, so we're respected both by the inmates and by the government. So, we often participate and calm down many situations. We are able to by-pass the situation, trying to provide their immediate demands.

ESTUDOS AVANÇADOS – Thank you very much, Father Valdir, for your interview.

Father Valdir João – I'm available.