



II INTERNATIONAL SEMINAR ON HUMAN RIGHTS AND BUSINESS

PROGRESS ON THE DEBATE OVER HUMAN
RIGHTS AND BUSINESS IN BRAZIL AND
CONSOLIDATION OF DIALOGUE BETWEEN
COUNTRIES OF THE “GLOBAL SOUTH”



CENTRO DE
DIREITOS HUMANOS
E EMPRESAS

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The II Seminar on Human Rights on Business took place between the 13th and 17th of April 2015, on the Law Faculty of the Federal University of Juiz de Fora (UFJF) – MG. It was organized by **HOMA – Human Rights and Business Centre** and was made possible, once more, with the support of the Ford Foundation. This Seminar had about 180 participants, fulfilling its goal with the reunion with some of the greatest national and international representatives on the subject, be it academics, activists or affected on the field of Human Rights and Business.

This has allowed not only the development of different debating fronts concerning the most relevant theoretical questions on the field but also contributed to the definition of the epistemological field of Human Rights and Business, as well as the strengthening of already existing and yet to come partnerships and initiatives.

The Opening Panel of the II Seminar had a strategic goal when suggesting the theme: “Human Rights and Business International Agenda and South-South dialogue”, highlighting the need to build a dialogue network on the subject with a South perspective, so as to guide the discussions on the International Agenda. In order to do that, we had the participation of the renowned researchers and professors Bonita Meyersfeld, director of the Center for Applied Law Studies (CALs), of the Witwatersrand University, Johannesburg – South Africa; Surya

Deva, professor of the Hong Kong University; Raphael Vasconcellos, Secretary of the Permanent Review Court of the Mercosur and professor of the Rio de Janeiro State University (UERJ); Carlos Lopez, Peruvian and member of the International Court of Justice (ICJ), in Geneva, Switzerland; and Sheldon Leader, director of the Business and Human Rights Project, of the Essex University, United Kingdom.

On the resolve of strengthening a South perspective to set the debate on the field of Human Rights and Business, the professors of the “Global South” countries have highlighted the importance of readings on this subject from different angles, from the perspective of those who have their rights violated relating this point of view to the main topics underway internationally. Professor Sheldon has brought his experience in advocacy with such affected global south communities, reaffirming the need of an active voice of those actors.

The subject Human Rights and Business brings novelty and innovation to the academy, facing great challenges of the present-day and fundamental topics on the context of globalized economy, such as the model of development as an applied economic growth, the responsibility of financing agents on large undertakings, expansion and insertion of new markets and trade opportunities, the mechanisms by which justice implements itself, the attrac-

tiveness of developing countries for the capital, amongst others.

Taking this panorama into consideration, the voices that stand up for Human Rights cannot be muffled, and the II Seminar came to associate academic production with the demands and needs of activism in preservation of Human Rights, seeking the production of knowledge capable of contributing to the defense of the rights of vulnerable groups and communities.

Thereby, the Seminar organized itself in 6 (six) working groups that had the intention of putting in touch researchers that produce, direct or indirectly, on the field of Human Rights and Business.

The WG1 had as main theme “Public Financing and Large Ventures”, coordinated by João Roberto Lopes Pinto, from the UNIRIO University and the More Democracy Institute; Juana Kweitel of CONECTAS and Silvia Marina Pinheiro, from FGV-Rio and HOMA member. In this group, the discussions have approached the lack of social and environmental safeguards by the BNDES when granting funds, comparing it to other funding institutions, like the World Bank and BRICS Bank, discussing the public funding of constructions and new ventures and the responsibility of the funding institutions by violation of Human Rights.

The WG II, about “Civil Society and Combat Strategies Against Violations of Human Rights by Companies”, had as coordinators Gonzalo Berrón, of the Transnational Insti-

tute and Friedrich Ebert Foundation; Maria Elena Rodriguez from IBASE and Daniel Maurício Cavalcanti de Aragão, from UFBA. The presented articles dealt with civil society and how it can act on the defense of Human Rights, highlighting the process of articulation for the International Treaty of Human Rights and Business.

On the other hand, the WG III, with the topic “Business Arrangements and New Challenges for the Accountability of Companies for Human Rights Violations”, had the coordination of Sérgio Ávila Negri, Maíra Fajardo Linhares Pereira and Bruno Milanez, all of which professors at UFJF. In this working group the featured subject was the challenge on dealing with complex business arrangements that hamper the fight against Human Rights violations by large enterprises and their consequent liability.

The WG IV, entitled “Judicial and Extrajudicial Mechanisms of Reparation of Human Rights Violations by Companies”, was coordinated by Joana de Souza Machado, from UFJF – Homa, Raphael Vasconcelos from the Permanent Revision Court of the Mercosur, and Carlos Lopez, advisor from the International Court of Justice. The articles presented on this group grappled, under a critical perspective, the Brazilian justice system and its mechanisms concerning the treatment and trial of Human Rights claims, dealing with the subject of video evidence and extrajudicial mechanisms of conflict

resolution, like arbitration. It was also sought to understand the role of the Judiciary and its reach, as well as the challenges of dealing with a Human Rights case.

Coordinating the WG V, “Internationalization and Criminalization of Territory and Large Enterprises”, we had Ana Costa, from UFF, and Roberto Moraes, from UFRJ. This WG has brought to the debate an approach concerning territories on a global dynamic of capital reproduction by means of corporate acting. The enterprises have the power to modify space dynamic by insertion on different areas, affecting, therefore, the way of life of traditional communities, as well as inserting market logic, managing and mediating constructed social relations due to undertakings.

And last, but not least, the WG VI Social Movements and Corporations, organized in partnership with the Law and Social Movements Research Institute (IPDMS), coordinated by Fernanda Maria Vieira, from UFJF, and André Filipe Pereira Reid dos Santos, from FDV, both member researchers from the IPDMS. This working group had multiple articles that approached subjects like Law and Marxism, labor law, as well as labor analogous to slavery on the present-day scenario and cases of Human Rights violations.

It is considered that about 40 of the different articles presented were of the utmost quality, serving to reunite researchers from

multiple states of the federation and from different fields of knowledge.

In order to promote the deepening of discussions on Human Rights and Business, the II International Seminar promoted three mini-courses dealing with important factors for the development of research in the field, namely: the International Treaty, taught by teachers Surya Deva and Carlos Lopez, the international advocacy on Human Rights and Business, taught by Professor Sheldon Leader, and funding opportunities for research in the area, specifically between the UK and Brazil, taught by academic Kai Yin Low.

The first mini-course was taught by experts Surya Deva and Carlos Lopez and had as main theme the future of the drafting process of the International Treaty on Human Rights and Business, starting now with the first meeting of the Intergovernmental Working Group in Geneva, between the 6th and the 10th of July 2015. Among the considerations made, it was emphasized the importance of recognizing human rights as a category of non-negotiable rights, and since the capitalist globalization and the trans-nationalization process of production is increasing, it becomes more difficult to hold companies accountable for human rights violations and a regulatory framework should be sought in order to fill that gap. Thus, it was commented that the protection offered to citizens still largely depends on the country in which the violation

occurs, and that although there are states with protective legislation, most countries receiving the majority of branches and transnational subsidiaries have serious governance problems and legislative and democratic deficits as well.

Based on the report produced by the International Commission of Jurists (ICJ), the professors discussed important issues that should be addressed in the drafting of the treaty, such as extraterritoriality and the legal status of International Law granted to transnational corporations.

The second mini-course was coordinated by Professor Sheldon Leader. Professor Leader addressed issues regarding advocacy in cases of violations of human rights committed by companies in Africa, especially the case of Shell in Nigeria, where the "Business and Human Rights Project" at the University of Essex worked. Resuming some of their previous research, Professor Sheldon raised the issue of the conflict between "avoidance vs. compensation", indicating a problem in the internal decision-making process of the companies themselves which, before the economic feasibility calculation, ended up deciding to violate human rights and later compensate victims (when there is compensation) due to a higher profit margin, rather than prevent violations as the principle of least harm compels.

After his presentation and the debate, Professor Sheldon concluded his speech indi-

cating a need for methods which disregard the legal personality of companies engaged in transnational economic groups to help reach the agents responsible for the violations.

The last mini-course was taught by academic Kai Yin Low, manager of the partnership in research and business office at the University of Essex - United Kingdom, which presented opportunities for research funding between the UK and Brazil, an important agenda for the viability of quality research in the area.

Set as one of the fundamental pillars of Homa, the II Seminar also focused on the presence of victims of human rights violations committed by companies such as Patricia Generoso, a resident of Conceição do Mato Dentro / MG, leader of the REAJA movement and an affected of the Anglo American miner in the installation and operation of the Minas-Rio complex; Alexandre Anderson, leader of AHOMAR (Association of Men and Women of the Sea), and an activist inserted into the National Program for Protection of Human Rights Defenders; and "Dona" Noemia Magalhães, a resident of the Fifth district of São João da Barra / RJ, leader of ASPRIM (Association of Real Estate Owners and Residents of Açu, Campo da Praia, Pipeiras, Barcelos and Cajueiro), and affected by the works in the Açu Port.

This seminar also provided a moment on the last day, when some of the coordina-

tors of the Working Groups made up two tables where they would recap the topics discussed during the event, outlining strategies and assessing the overall situation in the field of Human Rights and Business.

Still, at the end of the event, in its closure, Homa had the valuable partnership of the Permanent Review Court of the Mercosur, and jointly organized a colloquium on "International Dialogues: Juiz de Fora and Regional Integration" which was composed of Raphael Vasconcellos, Secretary of TPR; Manoela Carneiro Roland, Homa Coordinator; and Jorge Fontoura, President of TPR; and rewarding. Reginaldo Arcuri, former director of the Mercosur Secretariat and Caputo Bastos, Former member of the TSE with the Rosalba Medal, highest honor granted by the Court, given its importance in the regional integration process.

Thus, the II International Seminar on Human Rights and Business had the power to insert the debate on the subject in the Brazilian academic calendar, bringing together researchers from various fields, members from organizations of civil society and victims of human rights violations, consolidating a transversal dialogue between countries and realities of the "Global South" through international speakers and the partnership with the Permanent Review Court of the Mercosur, responsible for regional integration.

We may, thus, indicate the main results achieved with this event as the following:

the strengthening of links between academic centers and non-governmental organizations working with the "Human Rights and Business" theme; our increased recognition as a center of reference in the area; an improvement of the accumulated knowledge in the preparation and submission of scientific articles by both the coordinators of Homa, as by their researchers, including a partnership with Law graduate students at the University; such process helped identifying the very theme of "Human Rights and Business" as a relevant academic field in Brazil, so that more research may be developed; greater involvement of the Centre in the Treaty Alliance and partnership with Professor Carlos Lopez from the ICJ, so that we may work together on the possible content of the future international treaty on Human Rights and Business; the preparation and submission of a joint activity proposal with professors Sheldon Leader, Surya Deva and Bonita Meyersfeld during the next UN Forum on Business and Human Rights, at the UN Human Rights Council in November, and finally, the conclusion of an agreement between Homa through UFJF and the CALS, from Wits University, in South Africa.

ROLL OF PARTICIPANTS

Opening Table

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Working Groups

Public Financing and Large Ventures <i>Working Group I</i>	Civil Society and Combat Strategies against Human Rights Violations by Companies <i>Working Group II</i>	Business Arrangements and New Challenges for the Accountability of Companies for Human Rights Viola- tions <i>Working Group III</i>
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PHOTOS FROM THE EVENT



