

Harvard University Extension School

International Human Rights Law (LSTU E-113) - Professor Diana Buttu

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TITLE:

The efforts in Brazil to implement the ICESCR

A case of success: Barretos Cancer Hospital

I – INTRODUCTION

As we know, in the international scenario there are some treaties that take care of economic, social and cultural rights, highlighting among them: The *International Covenant on Economic, Social and Cultural Rights* (1966) and the *Inter-American Convention of Human Rights*, also known as the Pact (covenant) of San Jose of Costa Rica, added by the Protocol of San Salvador, which increased those rights in Covenant (1998).

The primary purpose of this paper is to discuss the efforts in Brazil to implement the ICESCR (International Covenant of Economic, Social and Cultural Rights), but also exposing something about a real case connected to only one of the various aspects related to this broad topic: health! More specifically the Barretos Cancer Hospital. I insist on this point only

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² Paper mainly based on the following doctrines: ALSTON, Philip and GOODMAN, Ryan. *International Human Rights: the successor to international human rights in context*. Oxford: Oxford University Press, 2013. LEE, Debra S., HALL, Charles and BARONE, Susan M. *American Legal English*. The University of Michigan Press, 2015. SCHOOL OF THE PUBLIC MINISTRY OF THE UNION (BRAZIL). *Practical Handbook of International Human Rights* (Coord.) Sven Peterke, ESMPU, Brasília: 2010. Available in: < https://escola.mpu.mp.br/linha-editorial/outras-publicacoes/Manual_Pratico_Direitos_Humanos_Internacionais.pdf >. Access in: apr. 25th, 2016. FRISCHEISEN, Luiza Cristina Fonseca, cited paper, Chapter 8: economical, social and cultural rights, pages 253 et. Seq.

because it is really unusual that in a developing country you can find a work of this acuteness/greatness.

And I think it is important to give an example like that because the text of the Universal Declaration of Human Rights addresses the issue of health and considering the fact that the original sources of the International Human Rights (on its legal aspect, as treaties, customary law, general principles and others) have not been enough to mitigate (or to solve) the suffering of millions of underprivileged human beings, and it has increasingly been noted individuals actions (private), in various sectors, in order to comply only with the provisions of the Universal Declaration of Human Rights.

II – INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS³

As well written by the doctrine⁴, one of the fundamental principles of ICESCR is the preoccupation that in the implementation of the Covenant no discrimination will be allowed by any reason, race, color, sex, language, religion, political opinion or any other, national or social origin, property, birth or another situation (article 2º, § 2º). And also there is a preoccupation

³ This paper is also grounded in the following doctrines: ABRAMOVICH, Victor; COURTIS, Cristian. *Social rights as enforceable rights*. Madrid: Trota, 2002. ARANGO, Rodolfo. *Rights, constitutionalism and democracy*. Bogotá: Universidad Externado de Colombia, 2004. [Series of Legal Theory and Philosophy of Law, n. 33]. BOBBIO, Norberto. *The era of rights*. Trad. Carlos Nelson Coutinho. Rio de Janeiro: Campus, 2004. BOBBIO, Norberto. *Equality and freedom*. Trad. Carlos Nelson Coutinho. Rio de Janeiro: Ediouro, 2002. DWORKIN, Ronald. *Taking rights seriously*. Trad. Nelson Boeira. São Paulo: Martins Fontes, 2002. FRISCHEISEN, Luiza Cristina Fonseca. *The construction of equality and the justice system in Brazil, some paths and possibilities*. Rio de Janeiro: Lumen Juris, 2007. PIOVESAN, Flávia; IKAWA, Daniela (Coord.). *Human rights, the foundation, protection and implementation: perspectives and contemporary challenges*. Curitiba: Juruá, 2007. v. 2. LOPES, José Reinaldo de Lima. Human rights and equal treatment : impunity issues, dignity and freedom. *Brazilian Journal of Social Sciences*, São Paulo, vol.15, n.42, pp.77-100, fev. 2000. Available in: < <http://www.scielo.br/pdf/rbcsoc/v15n42/1738.pdf> >. Access in: apr. 20th, 2016. PIOVESAN, Flávia; IKAWA, Daniela (Coord.). *Human rights, the foundation, protection and implementation: perspectives and contemporary challenges*. Curitiba: Juruá, 2007. v. 2.

All *apud*: FRISCHEISEN, Luiza Cristina Fonseca. *Practical Handbook of International Human Rights*. School of the Public Ministry of the Union (Brazil), Coord. Sven Peterke, ESMPU, Brasília: 2010. pp. 254/272.

⁴ In this path: FRISCHEISEN, Luiza Cristina Fonseca. *Practical Handbook of International Human Rights*. School of the Public Ministry of the Union (Brazil), Coord. Sven Peterke, ESMPU, Brasília: 2010. p. 256.

about the right of asylum, notably because of growing migration in the post war period (article 2º, § 3º).

It is important to note that nowadays there is no way to separate the ICESCR of the International Covenant on Civil and Political Rights and the reasons that have led to two different covenants are in the past of the cold war, when the world was unhappily incommunicable and people were often not treated as citizens of the same world.

Furthermore, in 1966 many African countries were still in the process of decolonization and some countries in Latin America were living under military dictatorship and Brazil was one of them⁵.

Today we can say that the world is more mature and ready to deploy more efficiently the ICESCR. Nowadays is growing in the world the idea of the importance to curb acts of corruption, as something that erodes not only the goods of the people but also the soul of the human being.

This concept now more widespread can be a hope to implement, in fact, the ICESCR, mainly in the poor countries, and the rich countries have responsibility with the people who live in the countries which were explored, not only on their natural assets, but also with the exploitation of slave labor of many people.

Finally, as it is possible to notice we are all – indeed – part of the problem!

1. Main contents

As asserted by Luiza Cristina Fonseca Frischeisen⁶, “The ICESCR lists general guidelines for implementing the plan and list of social, cultural and economic, which can be grouped in the following categories:

⁵ FRISCHEISEN, Luiza Cristina Fonseca, op. Cit., p. 257, footnote 8.

⁶ FRISCHEISEN, Luiza Cristina Fonseca. *Practical Handbook of International Human Rights*. School of the Public Ministry of the Union (Brazil), Coord. Sven Peterke, ESMPU, Brasília: 2010. pp. 257/258.

- self-determination
- equality between men and women
- right to work, rest and recreation
- right to strike and social and trade union organization
- right to social security
- right to protection of the family, motherhood, children and adolescents and young people
- right to live with dignity (food and housing)
- right to health
- right to education
- right to culture.”.

2. Establishment in the Brazilian constitutional and legal order

Brazil lived under the rule of a military dictatorship between the years 1964 and 1984, but before and after this period there were direct elections and democracy in its history. So, during twenty years a military dictatorship took the power in Brazil by a coup.

After this period of our history, by free elections, another government was installed and in January 24, 1992, the ICESCR entered into force by the Presidential Decree n° 591, in 07.06.1992.

Brazil had joined the Pact of San José of Costa Rica, but the last Brazilian Constitution was enacted in 1988, so, before the ICESCR entered into force (1992). By the way, the Constitution of 1988 is known as “The Citizen Charter”, because it brings in its body a huge amount of human rights, defining the democracy consolidation in Brazil.

Definitely the Brazilian Constitution is considered one of the most advanced in the world. So, the problem is not rooted in the Brazilian legal system, but in the effectiveness of these rules, *i.e.*, the problem is “how” to comply “what” is already written.

Our problems have two basic premises: the unstable economy and cultural aspect, including corruption. Nowadays, the “Partido dos Trabalhadores” (Workers Party), which had its origins in social movements, simply betrayed millions of poor people and improved/increased a dirty corruption scheme and other illegalities (impeachable offenses) committed by the current president, and because of that is undergoing now a process of impeachment.

Of course the corruption was not created in Brazil by the Workers Party or by the current president (Corruption is a problem inherent to the human being, unfortunately), but there is no way to deny that the politicians of this party settled in the scariest corruption scheme of all time, including almost breaking the largest oil company in the country (Petrobras).

Even with all of these problems Brazil continues to maintain itself among the largest economies in the world.

Several politicians and wealthy businessmen were arrested and taken to prison for corruption and other crimes of a public nature, mainly white collar crimes.

So, while we cannot modify these issues, that take long time, the Judiciary Branch and the Public Ministry in Brazil have played/demonstrated an important role to ensure the effectiveness of human rights.

History shows that cultural changes occur in different ways in different countries, sometimes a civil war, once and a sharp shock of civility.

I have hope that the measures of the judiciary and prosecutors will promote the so longed cultural changes in our society.

3. The efforts in Brazil do implement the ICESCR and the justiciability⁷ of some rights

As I said before in other two papers (doctoral thesis and master's thesis)⁸, in a Social and Democratic State of Law there are some essential principles that must exist also to regulate and to ensure (guarantee) some basic, fundamental and universal rights. These principles are expressly written in the Brazilian Constitution: due process of law, equality and isonomy, probity, morality, contradictory, transparency, social rights etc.

As well written by the doctrine⁹: “It is important to highlight that it is not exclusively a Brazilian debate, but it is also present in several countries, where the access to these rights for the poor people may be more difficult, as we can see by the Colombian doctrine - Rodolfo Arango (*Derechos, constitucionalismo y democracia, Universidad Externado de Colombia, 2004*) and Rodrigo Uprimny (*A judicialização da política na Colômbia: caso, potencialidades e riscos. Revista Sur, n. 6, ano 4, 2007. disponível em <www.surjournal.org>*) and Argentines Victor Abramovich e Christian Courtis (*Los derechos sociales en el debate democrático. Madrid: Ediciones GPS, 2006*), and even in those countries where they only discuss where the resources will be allocated, as we can see by the British Jeff A. King (The Justiciability of resource allocation, *The Modern Law Review Limited, 2007, 70 (2) MLR 197-224*). For a World panorama litigation cases on economic, social and cultural rights, we suggest: Litigation economic, social and cultural rights: achievements, challenges and strategies. Genebre: Centre on Housing Rights & Evictions, 2003 <www.cohre.org/litigation>.”.

⁷ About the justiciability or judicial activism in Brazil: “The judicial activism, specially the one that comes from the highest courts all around the world – and, in Brazil’s example, in a remarkable way by the Supremo Tribunal Federal –, is certainly one of the richest issues for a contemporary debate inside law studies, specially towards the public policies concretization, as well the social inclusion that its policies could bring. We must consider, in the other hand, that social inclusion couldn’t be a absolute value, ought to be harmonized with other relevant values, and, in this case, we contrasted the free enter enterprise and the business activity. At the end, as a analytical reference, we brought the Raposa Serra do Sol leading case, delimited on a STF judgment.” (MINHOTO, Antonio Celso Baeta. *The Judicial Activism And The Tense And Fragile Balance Of Social Inclusion And Free Enterprise: the role of the judicial branch on construction of public policies and its intervention in the economical domain*. Available in: <<http://www.abdconst.com.br/revista11/ativismoAntonio.pdf>>. Access in: apr. 25th, 2016)

⁸ GERAIGE NETO, Zaiden. *Rescissory Action The slow pace of written law, compared to fast transformations within contemporary societies*. Revista dos Tribunais, São Paulo: 2009.; GERAIGE NETO, Zaiden. *The principle of non-obviation of Judiciary jurisdiction*. Revista dos Tribunais, São Paulo: 2003.

⁹ FRISCHEISEN, Luiza Cristina Fonseca, op. Cit., p. 255, footnote 3.

Of course the Powers of a Republic have typical and exclusively functions each other and we all know that the Judiciary Branch has the responsibility to judge, *i.e.*, to interpret and apply the law; on the other hand, Executive Branch has the responsibility of managing public resources. Then, in theory, in Brazil all the three powers (judiciary, executive and legislative) are harmonics and independent each other (article 2º of Brazilian Constitution – principle of separation of powers).

Usually, one Power cannot meddle in the competency of other Power. So, the Judiciary normally analyzes the formal aspect, but not the merit of some decision of the Executive Branch, because this decision will be protected by the administrative discretion.

It is not difficult to imagine that the Executive Power has committed several abuses, believing in impunity, including misuse/bad use of public money and non-compliance with implementation of mandatory resources, as in education and health areas, deviating the money for purely political works, forgetting the social rights.

Likewise the Legislative Power often commits illegalities, mainly in the form of fund political campaigns and demanding bribes in exchange for favors.

In these cases, when the already cited principles are offended (due process of law, equality and isonomy, probity, morality, contradictory, transparency, social rights etc.), the Judiciary Power normally judges the merit of the acts of the other two Powers, to restore constitutional order.

Besides corruption, most of these problems are related to the health care of the population¹⁰, including medicines, hospitalization, basic hygiene and disease prevention. Similarly, the government does not use the mandatory money in education and the people who

¹⁰ There are some examples of Justiciability towards Inter-American Court of Human Rights, which take care of health issues: INTER-AMERICAN COURT OF HUMAN RIGHTS. *Comunidad Indígena Yákeye Axa vs. Paraguai*. Sentença de 17.6.2005, série C, n. 125. Available in: < http://www.corteidh.or.cr/docs/casos/articulos/seriec_125_esp.pdf >. Access in: mar. 20th, 2016. INTER-AMERICAN COURT OF HUMAN RIGHTS. *Albán Cornejo e Outros vs. Equador*. Sentença de 22.11.2007, série C, n. 171. Available in: < http://www.corteidh.or.cr/docs/casos/articulos/seriec_171_esp.pdf >. Access in: mar. 20th, 2016. INTER-AMERICAN COURT OF HUMAN RIGHTS. *Ximenes Lopes vs. Brasil*. Sentença de 4.7.2006, série C, n. 149. Available in: http://www.corteidh.or.cr/docs/casos/articulos/seriec_149_por.pdf > Access in: mar. 20th, 2016. *Apud*: FRISCHEISEN, Luiza Cristina Fonseca, op. Cit., p. 265, footnote 25.

should have a good formal education don't have discernment to choose the politicians (the rulers).

In this way, in cases like that, usually the Public Ministry (prosecutors) file lawsuit against the authorities who are practicing the illegal thing or omitting to perform their duty and the consequences can be (examples):

- Determination to fulfill (to accomplish) certain order, for example, the free delivery of some medicine to the poor people or even hospitalization and treatment;
- Determination to limit the amount of prisoners per cell and to give human rights condition to the detainees;
- Determination to enroll children in public schools;
- Besides that there are penalties against the political offenders, which can be indemnity, improbity, loss of political rights, loss of public office, prohibition of contracting with the government, prohibition to vote and be voted, collective moral damage (by class actions), and even imprisonment.

Treating social rights as fundamental rights, Rodolfo Arango¹¹ explains: “The best constitutional reasons speak on behalf of decisions by constitutional judges that would compel the authorities to guarantee not only the availability of places but also the material resources to secure the exercise of basic social rights. The reasons against such guarantees, that is, a lack of money or inadequate infrastructure, and the responsibility of the parents, do not justify the failure to recognize the afore-mentioned constitutional position, for is non-recognition by the state will harm the individual, by excluding him from the benefits of progress and condemning him to a marginal status in the society”.

In Brazil we have two High Courts, STJ (Superior Tribunal of Justice) that cares about infra-constitutional issues and STF (Supreme Federal Tribunal), which cares about constitutional issues, and it is the guardian of the Constitution.

¹¹ ARANGO, Rodolfo. *Basic social rights, constitutional justice, and democracy*. Ratio Juris, Oxford, v. 16, n. 2, p. 141-154, jun. 2003. Apud: FRISCHEISEN, Luiza Cristina Fonseca, op. Cit., p. 266, footnote 27.

In both High Courts, also in lower Courts and Judges (singular), there are a lot of cases and verdicts asserting about the issue of justiciability, and almost hundred percent of the decisions are in the path to allow the Judiciary Power to takes the place of the other Powers in some particular cases, mainly when people need to have and to feel actually the economic, social and cultural rights.

III – A CASE OF SUCCESS: BARRETOS CANCER HOSPITAL¹²

As one of the categories of the ICESCR, the health issue is obviously related to the life's history of a hospital specialized in cancer treatment, prevention and research, located in Brazil and maintained by a private foundation, which was established on 1967, by a couple of rich physicians who founded the hospital.

Love, humanism and idealism to build a dream were the ingredients that led the couple of physicians to almost spend its rich personal assets. The dream was to offer to poor people, completely free, the same treatment of cancer that had the rich people.

In 1988, initially concerned about the family assets, the son of those physicians embraced his parent's idea and began to operate (manager) the hospital, where nowadays 6.000 (six thousand) poor people are assisted each day, from almost 2.000 (two thousand) cities, from all 27 states of Brazil, by 400 (four hundred) doctors (physicians) and more than 3.500 (three thousand and five hundred) other employees, who work exclusively and full time to care for patients.

The main unit is located in Barretos - a city of the state of São Paulo -, there are scattered units for whole Brazil and the hospital operates in a built-up area of more than 120.000 m².

Today, with the credibility gained by hard and serious work, the hospital has many partners around the World, as St. Judes Children Hospital (Memphis/USA), MD.

¹² This topic is grounded on the final paper proposal.

Anderson Hospital (Houston/USA), IRCAD (Strasbourg/France) and others relevant institutions, acting against cancer, utilizing not only the combat itself, but also prevention and research. Of course, the research produced by these partners together is extremely important for all human beings in whole World.

So, I think it is much linked with the Article 25 of the Universal Declaration of Human Rights, which states: “(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”.

Finally, in the following topics I will demonstrate how people can make good things; even in a country still under a development process, by utilizing sources like compliance, transparency, rules against corruption and other mechanisms.

1. A Brief History in years – The beginning¹³

1962: Hospital St. Jude is opened.

1967: PIO XII Foundation (maintains the hospital) is established.

1988/1989: Henrique Duarte Prata, son of the founder, becomes manager of the hospital and continues the project.

1991: Opening of 1st pavilion of expansion of the hospital “Antenor Duarte Villela”.

1993: To cover de monthly deficit and expand the activities, the Fundraising Department began its activities with campaigns, auctions and other charitable activities.

¹³ This topic and the following are grounded (transcription) in the HCB's Institutional Folder and in the book “Love Above All”, by Henrique Duarte Prata. (PRATA, Henrique Duarte. *Above all love: as faith and solidarity built the largest center of national reference against cancer.* 2 ed. São Paulo: Gente, 2012.)

1994: The Prevention Department began the “Busca Ativa” (Active Search) work for the prevention of cervical cancer on the outskirts of the city with a bicycle equipped with a gynecological table.

1997: Foundation of the Voluntary Association in the Fight Against Cancer (AVCC).

1998: The show “Amigos” (Friends”) takes place during the Barretos “Festa do Peão de Boiadeiro” (Cowboy Festival), with a total revenue of US\$ 1 million.

2000: The Ministry of Health recognizes Barretos Cancer Hospital as the leading hospital in Brazil in Hospital Quality among the 6,530 public and private hospitals assessed.

2001: Famous celebrities get together to record the 1st CD “Direito de Viver” (The Right to Live), whereby all the revenue is donated to the hospital.

2001: Inauguration of the first Mobile Unit for the Prevention of Cancer in Latin America: a bus that is equipped to carry out exams throughout the country.

2002: José Serra, Minister of Health at the time, manages to raise funds and the hospital opens three pavilions which were extremely important for growth: Surgical Center, ICV and Hospitalization.

2002: Beginning of the television campaign “Direito de Viver” (The Right to Live) on national television.

2004: The third Mobile Unit is launched: a well-equipped truck ready to carry out prostate, skin and cervical exams throughout the population of the states of São Paulo, Rondônia, Tocantins, Goiás, Mato Grosso, Mato Grosso do Sul and Minas Gerais.

2006: The hospital puts the third Tumor Bank in Brazil into operation.

2007: The National Health Organization (ONA) credits the Cancer Hospital with a Level 1 for Quality in Health.

2007: Celebrities record “O Dia do Bem” (The Day of Good), a song that is present on the CD and DVD “Direito de Viver 7” (The Right to Live 7).

2008: The Children's Education Center is opened in Barretos Center Hospital.

2009: In partnership with AVON, "Instituto de Prevenção Ivete Sangalo" is founded with an area of 7.200 square meters, the project that awarded Avon Brazil and Instituto Avon with the "Purpose Award 2009 Prize".

2010: Beginning of the work of Children and Young Adult's Cancer Hospital: a space dedicated exclusively for the oncological treatment of children and young adults.

2010: SUS elect the Cancer Hospital as one of the three best hospitals in the State of São Paulo.

2010: The Molecular Oncology Research Center, the area of Learning and Research and the new Hemocenter are all added to the Prevention Institute.

2010: Partnership with "REDE TV", the campaign "Direito de Viver" (The Right to Live) has its annual program broadcast by the broadcasting company.

2010: The third Cancer Hospital unit is inaugurated in Jales, another city in the State of São Paulo.

2011: Garth Brooks, the most famous country music singer in the USA, becomes a partner of Barretos Cancer Hospital.

2011: MD Anderson, the largest center of Oncology in the World, chooses our institution as Brother Hospital.

2011: Opening of IRCAD – Training Institute in Minimally Invasive Techniques and Robotic Surgery.

2011: Barretos Cancer Hospital secures a partnership with the government of Rondônia. The construction of a pavilion adjacent to Base Hospital specialized in cancer treatment begins.

2011: According to research conducted by the Health Secretary for the State of São Paulo, the hospital was 1st amongst the Services that perform medical procedures and 3rd in the category Best Hospital in the State of São Paulo.

2012: Opening of the Children and Young Adult's Hospital.

2012: Expansion of the Jales Unit – Hospitalization, Surgical Center and ICU – thanks to distinguished partner Eunice Diniz.

2012: Henrique Prata, manager of the hospital, launches the book “Love Above All”, which talks about the trajectory of the Prata family and of the institution.

2012: New branch is opened, now in the capital of Rondônia, the Cancer Hospital – Unit of Porto Velho is inaugurated next to Base Hospital.

2013: Campo Grande receives a permanent unit and truck for the prevention of breast, cervical, skin and prostate cancer. Thanks to the donation of Mr. Antonio Moraes dos Santos. His name was given to the Prevention Institute of the capital of Mato Grosso do Sul (another State in Brazil).

2013: National Program of Support for Oncological Awareness (PRONON), during the Annual Meeting of the Voluntary Event Coordinators.

2014: Through Cutrale (enterprise in Brazil), the Hospital receives the donation of the robot Da Vinci, the cutting-edge technology for minimally invasive surgeries.

2014: Another International partnership begins, at this time between the Department of Radiotherapy of the Hospital and the University of California (UCLA).

2015: The foundation stone is installed, giving way to the construction of the Amazon Cancer Hospital in the city of Porto Velho.

2015: Garth Brooks comes to Brazil exclusively for a show in benefit of the Barretos Cancer Hospital.

2015: The DVD *Direito de Viver 15* (The Right to Live 15) is launched.

2015: The Government Department of Labor of Campinas makes a donation to the hospital.

2. São Judas Tadeu Hospital, Barretos Cancer Hospital and other units

The first unit, as I said before, was “São Judas Tadeu Hospital”, and nowadays it is dedicated to Palliative Care and a dose of love to the elderly. This unit is a multi-disciplinary medical approach that envisages the improvement of the quality of life for the patient and their relatives, fostering the prevention and relief from suffering. To do this, early identification of pain is essential, as well as assessments and impeccable treatment, besides addressing other physical, psychological and spiritual problems. Due to the importance of this humanizing practice, in 2003 São Judas Tadeu Hospital became an exclusive unit dedicated to patients in palliative care.

In order to guarantee a holistic and individualized approach to the care of patients and relatives, the unit counts on a multi-professional team composed of doctors, nurses, physiotherapists, psychologists, nutritionists, pharmacists, phonoaudiologists, occupational therapists, musical therapists, social assistants, spiritual assistants and volunteers of the Association of Volunteers in the Fight Against Cancer (AVCC). Thus, the patient is valued as a whole human being, and not just a patient with cancer.

3. Prevention Institutes/Unit of Truck Customization

The prevention work began in 1994 and the results were positive: of the total women diagnosed with cancer, 80% of the cases were in the initial stage, the period of the disease in which the chance of recovery is 90%.

The mobile units can track breast cervical, prostate and skin cancer through preventive exams of the public. In the case of skin cancer, besides the exams, the patients can be treated in the mobile unit, equipped with a complete surgical center to carry out ambulatory surgeries.

The hospital also has prevention institutes in some regions of the country. These units were opened thanks to existing partnerships. The preventive exams performed were those of the breast, cervix, skin, mouth and rectum. They are scattered throughout Brazil.

4. Clinical Research and Postgraduate Program

Beyond the combat and the prevention the Hospital has an Institute of Learning and Research, intelligence and technology, called CPOM (Molecular Oncology Research Center).

Cytogenetic and molecular tests are conducted for a more precise diagnosis of hematologic neoplasia (leukemia) and of pediatric areas.

Also there is the Institute of Learning and Research's post-graduate program, which is intended to qualify professionals associated with the oncological sector and corroborate with the evolution of the translational research in the area.

And also important is the telemedicine area, providing discussions with up groups around the World, by web conferences, including the American (US) Partners of the Hospital: MD Anderson and Saint Judes.

5. IRCAD

The Training Institute in minimally Invasive Techniques and Robotic Surgery (IRCAD) was founded in 1994 at the Strasbourg University Hospital in France by doctor and professor Jacques Marescaux. The project was initially set up with the main purpose of focusing on the prevention of digestive cancer, improving the early diagnosis of the disease and implementing new therapeutic strategies. With the success of its courses and with the advance of technology, the project extended its limits: in 2008, IRCAD Taiwan was opened, the second unit of the project, in Asia.

Due to the quality of assistance and its activities in the area of learning and research, Barretos Cancer Hospital formed a solid partnership with IRCAD France to house IRCAD BRAZIL, the third worldwide unit of the project and the only one on the American Continent.

6. Children and Young Adult's Cancer Hospital

Children and Young Adult's Cancer Hospital opened in 2012 and houses a separate built-up area, equipped with the best equipments of the World and as provisioned in the legislation and the Statute of Children and Teenagers, the Hospital Class Project offers educational assistance and allows further education to patients during the period of treatment.

Of course the unit counts on a multi-professional team composed of doctors, nurses, physiotherapists, psychologists, nutritionists, pharmacists, phonoaudiologists, occupational therapists, musical therapists, social assistants, spiritual assistants, toy room supervisor and teachers.

7. Socio-Cultural Institute

Created in 2008, the Socio-Cultural Institute arose to give more amplitude to the cultural initiatives of the Cancer Hospital. It is a not-for-profit civil association, classified as Civil Society Organization of Public Interest (OSCIP).

The objective of the institute is to replicate and multiply the projects restrict to Barretos to all the cities in which we are present with permanent or mobile units. Where there is a BCH (Barretos Cancer Hospital) care initiative, there will also be cultural projects and artistic initiatives that will create good memories for our patients and help them feel good!

IV – to complete the content: S.W.O.T. METHOD - the *philosophy: the Love Above All, the Rules of Compliance and Anti-Corruption* (Strengths and weaknesses/ Opportunities and threats)

The main formula of the success of the Barretos Cancer Hospital is portrayed in the book “Love Above All”, wrote by Henrique Duarte Prata, focusing in the system of single cashier, exclusive dedication of staff and the more recognized humanitarian treatment in this area.

Also using the S.W.O.T. Method, this provides four things to keep in mind in a strategic planning: Strengths and weaknesses, Opportunities and threats. Identified these four components, the Hospital down and implements measures

Therefore, if someone wants to stay working at the hospital, this person must be integrated to the principles of the institution, which has the following characteristics and other principles: Transparency, compliance, law anti-corruption, independent auditors (national and international), accountability to the public and donors, permanent supervision of the Public Ministry, ombudsman, strict rules against employees not complying legislation and the spirit of hospital work.

V – CONCLUSIONS

As I said in the beginning, the main purpose of this paper is to think about the efforts in Brazil to implement the ICESCR, and it is possible to note that although expressly written in Constitution and other laws, the economic, social and cultural rights – even nowadays – must have a help / acting of the Judiciary Branch to be delivered to the people (justiciability / judicial activism).

By other hand, Barretos Cancer Hospital is an example of a private institution that offers – 100% FREE AND ONLY FOR POOR PEOPLE – the best treatment (combat), prevention and research in Latin America, and one of the World's best, besides offering classes to children and adolescents patients, and finally offering cultural mechanisms for the patients and for all employees (social-cultural institute).

VI – REFERENCES

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