

WOMEN ACTIVISTS IN THE FIELD OF HUMAN RIGHTS AND BUSINESS

Amanda Romero Medina and Julia Mello Neiva

- *Voices of two activists from Brazil and Colombia* •

ABSTRACT

This article presents the views of two Latin American women who are Regional Representatives of the Business & Human Rights Resource Centre (or CIEDH for its acronym in Spanish) in the context of the debate on the impacts of business on human rights and the rights of nature. Júlia Neiva, from Brazil, worked for seven years at CIEDH on Brazil, Portugal and Portuguese-speaking African countries and then, returned to Conectas. Amanda Romero has worked as the South America Representative for CIEDH for nine years and counting. Raising more questions than answers, they make it clear that the business and human rights field is developing rapidly and more collective efforts are needed to overcome the serious problems that the communities face.

KEYWORDS

Businesses | Human rights | Full compensation | Civil society

1 • Introduction

This article shares the experiences of two Latin American women working as Regional Representatives at the Business & Human Rights Resource Centre (Centro de información sobre Empresas y Derechos Humanos, or CIEDH for its acronym in Spanish) in a context where feminist discourses and the practices of women's movements have increasingly appropriated the debate on the impacts of business on human rights, the rights of nature and women's rights.

Amanda began her work part-time in 2011 as the representative for Latin America and the Caribbean, which involved covering issues in the news, reports, key developments, advances and setbacks in the field of business and human rights. Her position changed in 2013 when Júlia Neiva joined CIEDH as the representative for Brazil and Portuguese-speaking countries in other parts of the world. They had been working together for seven years when Júlia decided to return to Conectas Human Rights. Amanda continues to work as Senior Researcher and Regional Representative for South America to this day.

Coming from different backgrounds, our paths converged at the CIEDH. Amanda had more than four decades of experience as a human rights activist and educator in Colombia and the Latin American region. Julia was a lawyer and Afro-Brazilian human rights activist involved in the process of social change that many people in her country had been building under governments of the left.

This encounter and our shared experiences are the basis for the reflections presented in this article. Here, we explore the significance of the practices that a NGO like CIEDH employs in its ongoing relationships with individuals, groups and activists from social, women, human and environmental rights organisations, indigenous peoples and Afro-descendants (and quilombola) communities, among other civil society groups, for Latin America and the Caribbean.

2 • Business on the human rights agenda

The issue of business did not seem to be on the agenda of human rights organisations; interest in the impacts on and violations of human rights by companies was already being developed in the mid-1970s via the Russell Tribunals,¹ later called the Peoples' Tribunals. The Russell Tribunal II addressed this issue in three different sessions: the first was held in Rome, from March 30 to April 5, 1974; the second, in Brussels, from January 11 to 18, 1975, and the third, again in Rome, from January 10 to 17, 1975. They obtained press coverage from several European media outlets. Based on human rights discourse, its approach was to analyse political violence in Latin America from critical perspectives of the fields of political science, law and international relations:

In view of this violence, the Russell Tribunal II investigated the institutional forms common to the different countries, the doctrine

underlying these institutional forms, the type of state that it gave rise to, its origins and root causes and its relationship with the dynamics of the economy and the international scene. But this important effort to investigate and understand the situation was not carried out in the Olympus of the academic world or grand cultural institutions – though it was the result of the joint efforts of many distinguished scholars and Nobel prize winners from various disciplines – but rather by collecting the cry of pain of the victims and all those who fought against this violence and feeding off it.²

In other words, it addressed the issue of companies' impacts on people and communities from a political perspective and linked them to the interference of transnational corporations in the so-called "Third World" countries in particular. For example, the Russell Tribunal II report identified how the violations of the "rights of man" were connected to the presence of multinational corporations, primarily those from the United States.³ By doing so, it laid the foundations for the debate on aspects that continue to be discussed all over the region today: the establishment of companies interested in natural resources led to environmental degradation, the exploitation of labour, tax breaks granted by host governments and extremely negative impacts on indigenous peoples and the consequent rights violations. The corporations did all this while taking advantage of the political repression typical of military dictatorships and the measures of social control, such as the nearly permanent state of siege (as in the case of Colombia) that prevailed at that time.

It was in this context that Amanda began her work on human rights in 1976, which coincided with the promulgation of the Algiers Charter or the Universal Declaration of the Rights of Peoples by intellectuals with ties to the Permanent Peoples' Tribunal. It was also in that same year that the two International Covenants on Human Rights came into force worldwide, which, for the first time, allowed for unprecedented activism, especially vis-à-vis the Human Rights Committee. This committee was established to monitor compliance with the International Covenant on Civil and Political Rights. In the case of Latin America, this was combined with the possibility of accession to the American Convention on Human Rights, which came into effect in 1978.⁴

However, in the 1980s and 1990s, the focus remained on violations of civil and political rights. Due to the imposition of austerity measures, including privatisation and other policies to downsize the state, and "free trade agreements", the issue of the serious impacts of business in our regions would only be taken up again in the following decade. It was in this context that the Business & Human Rights Resource Centre (Centro de Información sobre Empresas y Derechos Humanos or CIEDH in Spanish) emerged in 2002. In the words of its founder, Chris Avery, CIEDH was to be built on the model of Amnesty International, where he had worked. This meant that to remain independent and have the freedom to criticise the actions of corporations around the world, CIEDH does not accept funding from companies, business foundations or CEOs.⁵

But the history and the significance of the situation in Latin America had not yet earned a prominent place in CIEDH's work, nor in how the issue was addressed at the United Nations. After the regrettably unsuccessful process within the then UN Sub-Commission on Human Rights to promote a document (2002-2003), CIEDH began publishing information on situations occurring in Latin America on its website. In 2006, with the inclusion of Mauricio Lazala from Colombia in the team, the region's visibility on CIEDH's website and its presence in the organisation's work and methodologies began to increase.

Amanda joined CIEDH at a time when the UN was discussing the false dilemma of how to get states to approve standards on the negative impacts of business on human rights without them or the companies, particularly those from the Global North, rejecting them immediately. Her arrival coincided with the approval, a few months later, in 2011, of the UN Guiding Principles on Business and Human Rights. Then, in 2013, when the Government of Colombia was organising the first Latin American and Caribbean Forum, Júlia joined CIEDH.

Over the years, our friendship grew and was consolidated thanks to the convergence of our work to defend the communities of African descent, indigenous peoples and the rural and union groups affected by corporations in the countries that we covered. We organised meetings and created opportunities for mutual support. We also realised that we would have to face very complex challenges in our work, as we explain below.

3 • The dialogue with business: not just daily challenges, but ethical dilemmas

One of the first challenges that we came across was the need to engage with companies. As the Quakers taught Amanda, one must speak truth to power. But often, it is risky to do so, especially when we encounter people who work for the companies and see the civil society organisations that criticise them as their enemies. Some believe that the people working in the field of human rights have a hidden agenda and want to put an end to the places where it is convenient for the companies to operate in, with our governments' consent.

We receive complaints from victims of business operations every day. Unfortunately, our countries are the champions of attacks and murders of human rights defenders.⁶ Work that seemed simple, even routine, has become increasingly heart-breaking, full of bad news and announcements of tragedies that could have been avoided, such as the ones in Brazil involving the iron and coal mining corporation, Vale.⁷ These tragedies cost hundreds of lives and caused damage to the environment in dozens of riverside communities, as well as despair due to the failure or delay in bringing those responsible to justice. And, because of this, the communities wanted answers that we could not or cannot give through our work at CIEDH. What else can we do besides draw the world's attention to the multiple events that we uncover every day at work? How can we stop the horror of losing everything

due to the irresponsibility of corporate mega-projects from happening again, with the states' complicity? Can the *modus operandi* of corporations be changed in capitalism or is this *modus operandi* part of its very essence? How do we react to the model of predatory extractivism? Is it a new kind of coloniality that, in a not so subtle way, continues using racism as a mechanism of oppression and inequality?

4 • Companies' criticism of our work

The discourses that describe the private sector as an agent of progress, known for its efficiency because it provides quality jobs that allow people to earn better wages create for us an ethical dilemma linked to the very foundations of capitalism. Is it not, perhaps, the model itself that generates these consequences? When Latin American companies began losing revenues due to the world oil and fossil fuel energy crisis, in general, the decline in their profits was immediately compensated by what was said to be their greatest contribution: hundreds of thousands of workers were fired and left to their fate, ill and with no prospects of earning decent wages.

So, how do we dialogue with companies when they contradict themselves in every step they take? How do we make them realise that human rights are not something that they can choose to respect or not, but rather a moral and legal imperative? We experience a lot of frustration in our daily work. Things must change. It is necessary that, beyond the declarations of good intentions, the principles of discretionary voluntariness and the nicely printed, colourful reports to stop destroying the environment – especially in our countries, Brazil and Colombia, the two most biodiverse countries on the planet –, questions on impunity, complicity and accountability can be raised. What will be left for us in the end? What volcano will be set off in our region because of this debacle? We are confronted with these and many other unanswered questions on a daily basis.

Meanwhile, despite the difficulties, like trade unions, we remain open to talking to companies to try to bring about behaviour changes in their daily practices. However, corporations are complex structures that depend on several layers of hierarchy, which often do not communicate well with one another. Parent companies tend to be more open to dialogue than the offices in our region, given that here, high-level positions are occupied by those who also wield political and economic power and often switch back and forth between public office and the private sector. Occasionally, we find young, women professionals who clearly understand the human rights obligations of business, but they themselves have to deal with decisions that come from higher up in the company hierarchy. Therefore, one good lesson learned is that changes must come from management levels and even more so from investors⁸ (recognising that they are legally and morally responsible for the impacts, violations and abuses involved in their investments, but how do we hold them liable?), as experience in Brazil shows in the cases of Doce River⁹ and Brumadinho¹⁰ and the issue of protecting the Amazon.¹¹ We have noted several times that we are dealing with people who appear to have good intentions (at least, in public they do) and believe that they will change their companies from within, but

we know that this is not really possible. We often wonder whether they are very naïve or conformist. It seems that the departments that handle human rights issues, which frequently adopt the nomenclature of sustainability (either to avoid having to talk about rights and human rights obligations or because the terms are more palatable), often exist mainly to keep up the appearance that companies care about their obligations in this area, while in fact, they do not. They often engage in corporate capture, adopting human rights terminology, but without making any effective changes to their operations.

5 • Criticisms of our work from victims' organisations and other NGOs

The news, testimonies, expert studies, decisions of international bodies and human rights institutions and court rulings all confirm the need to change the conditions that generate an asymmetry of power between companies and the communities. Individuals and the organisations of the victims feel perplexed because they expect us to do more and do not always understand our reasons for talking to the companies that caused them harm. Of course, many people and communities coexist with the companies because their operations are located in their territories. Moreover, the communities see a series of people parading through their territories, from professionals in psychology, anthropology and social work to engineers, architects and civil servants representing the state, but who sometimes make it look more like they are representing the companies.

In response, we try to connect people with organisations, law firms, government bodies, national institutions and international human rights networks that can help them, as CIEDH does not offer legal defence, nor does it lobby states directly. It limits itself work to the equally important task of documenting cases, contacting companies and giving international visibility to the situations affecting communities, trade unions and individuals. Conectas has also represented groups of affected persons in cases before the Brazilian Supreme Court, in the international system for the protection of human rights or in the use of complaint mechanisms such as the National Focal Point of the Organisation for Economic Co-operation and Development (OECD). These strategies are complementary to one another.

It has also been hard for us to accept criticism of our work from non-governmental organisations. You do not expect criticism to come from your peers, but it does. For example, for many organisations that provide legal defence, there is no valid reason, from any point of view, to talk to the companies about the complaints filed against them; that is what the courts are for. For them, that is where it is appropriate to use legal tools to prove the existence of the harm and seek redress, not in an exchange of letters. And they are right, of course, and their position is totally legitimate. However, in the actions taken to mitigate, prevent and seek redress, the type of dialogue that we aim to build with companies can be very useful for raising awareness within business institutions about the seriousness of the events that result in human rights violations. Thus, many have accused

us – including in public – of being pro-business. However, we know that this is not true; we work in favour of the victims, the affected communities, based on our convictions as human rights defenders. CIEDH’s decision to publish the companies’ responses without editing them has contributed in many ways to maintaining a certain space for civil society. It reminds the private sector that the accusations of affected people exist and will continue to exist because reality changes and many impacts that were not foreseen at the beginning of an economic project emerge over the years, often with disastrous consequences. It also creates an opportunity to internationally expose the violations that occur in the territories on a website that is important to the victims and affected people and that companies, governments and international organisations respect. It may also help the victims obtain redress and justice and help hold companies accountable.

6 • The potential of work on business and human rights

In the discussion on regulatory frameworks and the need to go beyond economics and law, we believe that in the fight to restore the rights affected by third parties such as companies, “undisciplined” perspectives are valid – that is, ones that are not limited by the narrow frameworks of one given discipline and that use approaches, methods and contributions from several fields of knowledge instead. We can therefore appreciate social sciences’ important contributions and their – not always simple – dialogue with legal sciences.

For instance, many communities have benefited from academic research conducted in the field of anthropology that, combined with history, use ethnographic methodologies to collect local memories of experiences or that use agronomy and agroecology, which is closely tied to geography and geology, to interpret the loss of access to water or to the ancestral lands of peasants, indigenous peoples and rural communities of African descent. They have also benefited from Latin American feminist approaches that have used associative strategies and methodologies to organise women and create space for them to ensure that their voices are incorporated into the analysis of companies’ impacts. It is important to recognise, though, that these spaces reproduce the asymmetries of power and racism that structure our societies. And, finally, communities benefit from the contemporary epistemic dialogues in our region that critique trade union models in order to conceive other possible scenarios for struggle – ones that assume non-discrimination on any ground (ethnic origin/race, sexual orientation, disability or gender) as a principle and that propose revisiting economics-based approaches that still defend proposals of Eurocentric Marxism, which does not correspond to the way that resistance to capital is built in our region.

7 • Conclusion

Our work calls on us to learn from the new narratives of counter-hegemonic discourses that are needed to guarantee the survival of the sectors that are most vulnerable to the current business model. The lessons learned from our experience indicate that linking

the struggles of the human rights movements with those of the environmental, trade union and social movements is crucial. We must do so while asking ourselves (as Hall did, back in his day, in relation to identity):¹² Who needs extractivism? Who needs energy (including the so-called “renewable” energies)? Our standard of analysis should be the profound changes in culture, traditional livelihoods, geographies and the ways people relate to nature, which, in the midst of the pandemic, has led us to reflect much more on the present and future of our planet.

Finally, regardless of the institution through which we carry out our activism, we believe there is a need to rethink the role of the work on business and human rights – or better said, human rights and business. First, as a theoretical framework, human rights remains a discourse of modernity, which has been gradually changing thanks to certain struggles of the last century, such as the women’s struggle, the fight against racism and coloniality, and has been adapted to our peoples’ needs. Yet, precisely because of its genealogy, it lacks explicit mechanisms at both the national and international level to sanction fundamental rights violations committed by companies or human rights violations committed by individuals from companies working in collaboration with the military, the police or civil servants. As women human rights activists and scholars, we believe that this ambivalent connection between business and human rights contains many contradictions due to the “broken promises of modernity”, as Santos would say,¹³ since we are neither equal nor fraternal nor free – just as the “free market” is not free either. Capital’s interest in increasing profits at all cost and maintaining its privileges clashes with the needs and the deprivations of millions of people that the model generates.

Therefore, establishing a binding instrument, such as a UN treaty, would be a big step. Yet, even if we were to take up again the beginning of the discussion of the opinion tribunals, such as the Russell Tribunal sessions, there would still be much to develop in the area of private international law to make companies respect human rights. On the road ahead, one can see an epistemic dispute about the crisis of civilization that many Latin American experts are talking about, in which capitalism – even though it is faltering – still continues to devastate entire communities and there is no political will on the part of the state to stop it. Perhaps one small but sustained effort we could make would be to take firm action to name, shame, challenge and confront the companies while using the means that civil society itself builds for resistance.

NOTES

1 • They were named the Russell Tribunals in honour of the life of British philosopher Bertrand Russell (1872-1970), winner of the Nobel Prize in Literature (1950). Several sessions were held: the first, which addressed war crimes in Vietnam, was known as the “International War Crimes Tribunal”, the “Sartre-Russell Tribunal” or the “Stockholm Tribunal”. Russell organised it together with Jean-Paul Sartre, Lelio Basso, Ken Coates, Ralph Schoenman and Julio Cortázar, among others. The second tribunal specifically addressed the negative impacts of multinational corporations in Latin America.

2 • Authors’ translation. “As Multinacionais na América Latina - Tribunal Russell II,” Ministerio de Justicia de Brasil, 2014, accessed July 22, 2020, <https://www.justica.gov.br/central-de-conteudo/anistia/anexos/as-multinacionais-na-al-miolo-final.pdf>.

3 • See paragraphs 5 to 7 of the Tribunal’s sentence on the contamination of nature and the rights of indigenous peoples. In “Tribunal Russell II,” Paris at night, April 15, 2008, accessed July 22, 2020, <https://esperanzando-mano.blogspot.com/2008/04/tribunal-russell-ii.html>.

4 • Colombia only ratified and accepted the jurisdiction of the Inter-American Commission and Court in 1980, whereas several countries signed with reservations. Brazil ratified it years after Colombia, in 1992 only. “American Convention on Human Rights “Pact of San Jose, Costa Rica” (B-32),” Organization of American States, [n.d.], accessed July 22, 2020, http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm.

5 • For more on our understanding of independence, see “Our approach” in “About us,” Business & Human Rights Resource Centre, [n.d.], accessed July 22, 2020, <https://www.business-humanrights.org/en/about-us/about-us>.

6 • See, for example, the report of the UN Special Rapporteur on the situation of human rights defenders:

“Global: Relator sobre Personas Defensoras de Derechos Humanos (2014-2020) Publica Compendio de Informes,” Business & Human Rights Resource Centre, 2020, accessed July 22, 2020, <https://www.business-humanrights.org/es/global-relator-sobre-personas-defensoras-de-derechos-humanos-2014-2020-publica-compendio-de-informes>; and on the situation in Colombia: “Latinoamérica: Análisis sobre Seis de los Países del Mundo Más Letales para Defensores Ambientales en 2018, Incluyendo Mujeres Colombianas,” Business & Human Rights Resource Centre, October 29, 2019, accessed July 22, 2020, <https://www.business-humanrights.org/es/latinoam%C3%A9rica-an%C3%A1lisis-sobre-seis-de-los-pa%C3%ADses-del-mundo-m%C3%A1s-letales-para-defensores-ambientales-en-2018-incluyendo-mujeres-colombianas>. For information on the situation in Brazil, see “Deadliest Year on Record for Land & Environmental Defenders: New Global Witness Report Says 207 Activists Killed in 2017,” Business & Human Rights Resource Centre, 2018, accessed July 22, 2020, <https://www.business-humanrights.org/en/deadliest-year-on-record-for-land-environmental-defenders-new-global-witness-report-says-207-activists-killed-in-2017>; and “América Latina: Informe Señala que Sigue Siendo La Región Más Riesgosa para Personas Defensoras del Medio Ambiente,” Business & Human Rights Resource Centre, 2019, accessed July 22, 2020, <https://www.business-humanrights.org/es/am%C3%A9rica-latina-informe-se%C3%B1ala-que-sigue-siendo-la-regi%C3%B3n-m%C3%A1s-riesgosa-para-personas-defensoras-del-medio-ambiente>.

7 • The environmental disasters that Vale is responsible for left hundreds of victims. For more on Brumadinho, see: “La Tragedia por El Colapso de Una Presa en Brasil Cumple un Mes y Deja 179 Muertos,” Business & Human Rights Resource Centre, 2019, accessed July 22, 2020,

<https://www.business-humanrights.org/es/brasil-tragedia-por-ruptura-de-dique-de-relaves-de-vale-deja-decenas-de-muertos-y-cientos-de-desaparecidos#c184308>; and on Doce River, which involves BHP because the dam belonged to Samarco, a joint venture between Vale and BHP: “BHP Billiton & Vale Lawsuit (Re Dam collapse in Brazil),” Business & Human Rights Resource Centre, [n.d.], accessed July 22, 2020, <https://www.business-humanrights.org/en/bhp-billiton-vale-lawsuit-re-dam-collapse-in-brazil>. Many years later, their actions have not lived up to the expectations of the victims, nor restored their rights. See: “Series: Brumadinho, One year after Brazil’s worst social and environmental disaster,” Conectas Human Rights, January 25, 2020, accessed July 22, 2020, <https://www.conectas.org/en/news/series-brumadinho-one-year-after-brazils-worst-social-and-environmental-disaster>; and “The Situation of the affected people, four years after the Doce River tragedy,” Conectas Human Rights, November 5, 2019, accessed July 22, 2020, <https://www.conectas.org/en/news/the-situation-of-the-affected-people-four-years-after-the-doce-river-tragedy>. This is why the case was brought to court in England: “Reino Unido: Tribunal Julgará Processo Contra a Mineradora BHP por Colapso de Barragem em Mariana,” Business & Human Rights Resource Centre, July 16, 2020, accessed July 22, 2020, <https://www.business-humanrights.org/pt/reino-unido-tribunal-julgar%C3%A1-processo-contra-a-mineradora-bhp-por-colapso-de-barragem-em-mariana>.

8 • See Maurício Angelo, “Investidores que Controlam R\$76 Trilhões Cobram a Vale e Outras Mineradoras a Garantir a Segurança de Barragens.” Observatório da Mineração, May 7, 2020, accessed July 22, 2020, <https://observatoriodaminerao.com.br/investidores-que-controlam-r-76-trilhoes-cobram-a-vale-e-outras-mineradoras-a-garantir-a-seguranca-de-barragens/>; and Isis Almeida y Sabrina Valle, “Church of England Vende Ações da Vale por ‘Questão Ética.’” UOL, September 24, 2019, accessed July 22, 2020, <https://economia.uol.com.br/noticias/bloomberg/2019/09/24/church-of-england-vende-acoes-da-vale-por-questao-etica.htm>.

9 • See “Brasil: Atingidos Vão a Londres Buscar Justiça Três Anos Após o Desastre no Rio Doce,” Business & Human Rights Resource Centre, [n.d.], accessed July 22, 2020, <https://www.business-humanrights.org/pt/brasil-atingidos-v%C3%A3o-a-londres-buscar-justi%C3%A7a-tr%C3%AAs-anos-ap%C3%B3s-o-desastre-no-rio-doce>.

10 • See “In England, victims of Mariana and Brumadinho denounce violations to investors,” Conectas Human Rights, December 4, 2019, accessed July 22, 2020, <https://www.conectas.org/en/news/in-england-victims-of-mariana-and-brumadinho-denounce-violations-to-investors>.

11 • See Fábio Pupo, “Pressão de Investidores Contra Desmatamento Gera Alerta na Equipe Econômica.” Folha de S.Paulo, June 23, 2020, accessed July 22, 2020, <https://www1.folha.uol.com.br/mercado/2020/06/investidores-pressionam-brasil-para-proteger-amazonia-e-geram-alerta-na-equipe-economica.shtml>.

12 • Stuart Hall, “Etnicidad: Identidad y Diferencia,” in *Sin Garantías. Trayectorias y Problemáticas en Estudios Culturales*, 2nd edition, eds. Eduardo Restrepo, Catherine Walsh and Víctor Vich (Popayán: Universidad del Cauca, Envión, 2014).

13 • Boaventura de Sousa Santos, “La Transición Posmoderna, Derecho y Política,” *Doxa* no. 6 (1989): 225, accessed July 22, 2020, http://www.boaventuradesousasantos.pt/media/pdfs/Transicion_Postmoderna_Doxa6.PDF.



AMANDA ROMERO MEDINA – *Colombia*

Amanda Romero Medina holds a Ph.D. degree from the Universidad Pedagógica Nacional de Colombia (National Pedagogical University of Colombia) (2012). Based in Bogotá, she is a tenured professor of the Master of Human Rights, Transition Management and Post-conflict Programme at the Escuela Superior de Administración Pública (ESAP, Higher School of Public Administration) and Senior Researcher and South America Regional Representative at the Business & Human Rights Resource Centre (CIEDH for its acronym in Spanish).

email: amanda.romero@esap.edu.co



JULIA MELLO NEIVA – *Brazil*

Julia Mello Neiva is pursuing a Ph.D. degree in human rights at the Faculty of Law of the University of São Paulo. She holds a Master of Human Rights degree (LL.M.) from Columbia Law School (Columbia University, New York) and is a human rights specialist for the Faculty of Law of the University of São Paulo. Based in São Paulo, she is the Coordinator of Development and Socioenvironmental Rights at Conectas Human Rights. She is a lawyer and human rights activist. She worked for many years as a Representative and Senior Researcher at the Business & Human Rights Resource Centre and for other NGOs and academic institutions.

email: julia.neiva@conectas.org

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