



Child Rights References in the Universal Periodic Review

Summary:

A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Brazil – 1st Session – 2008

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National Report

3.3 Right to Food

The fight against hunger constitutes the axis of the State policies organized around the strategic milestone named "Fome Zero" (Zero Hunger), and comprises emergency as well as structural actions to ensure the right to proper nourishment. Fome Zero joins 49 comprehensive programs and actions of a cross cutting and interministerial character, such as The School Feeding Program (which serves 37 million children per year), credit, insurance and technical support to family farmers, agrarian reform, purchase of commodities from family farmers, direct income transfer and building of water reservoirs for storage of rain water.

The Bolsa Familia (Family Allowance) program guarantees to the citizens rights related to education, health and food and nutritional security, besides representing an important instrument of fight against poverty. The program consists in the articulation of three basic lines of action: immediate poverty alleviation by means of direct transfer of income and based on the monthly per capita family income, contribution for reduction of poverty between generations, by means of compliance with conditionalities such as school attendance and health follow-up, and articulation with other public policies in order to orient beneficiary families. The Program reaches 11.1 million poor families, about 45 million people, in all municipalities of the country. In 2007, about US\$ 5 billion were allotted for the execution of the Program.

3.6 Right to education

Brazil considers the exercise of the right to education a fundamental element of the fight against poverty and social exclusion. The State educational policy is associated with development strategies carried out in respect with regional and economic inequalities, and with racial, ethnic, gender and other diversities. The recent state initiatives related to the issue broaden the social scope of the protection of this right. The rate of coverage of basic education in Brazil achieved practically universal levels, with concomitant expansion of the other educational levels. In schools for the population whose age is between 7 and 14 years, for example, the gross attendance rate is of 97.4%. The current challenges of the country came to be related to the quality of the teaching offered, school drop out and low educational levels.

Since 2007, the public policies in education are articulated around the "Education Development Plan" (PDE), which was incorporated within priority social policies of the State for the years 2007-2010. PDE aims at boosting the results of the Brazilian education in a systemic manner and with a sharp focus on the most vulnerable areas. For such purpose, a synthetic indicator, which combines data about school flow and student performance has been created so as to orient policies for basic education from now on. It is the Basic Education Development Index - IDEB21.

Upon the launching of the PDE, the Brazilian state plans to advance in the full implementation of the human right to education, with the following purposes: (i) expansion of educational coverage, quality and output; (ii) expansion of education in human rights, with guarantees of education for the traditionally excluded populations, for disabled people and people with special educational needs; (iii) consolidation of public educational systems, both at state and municipal levels, for rural, indigenous and "quilombola" communities and (iv) tackling of vulnerabilities of the system of education for young people and adults nationwide.

Programa Brasil Alfabetizado (Literate Brazil Program) is one of the Brazilian state's initiatives to fight illiteracy. It reaches youths over 15, adults and elderly people, who had no access to education or had to interrupt their studies, with special attention to the geographic

regions with highest illiteracy rates. In 2007, the program reached about 1.3 million people, a target that will be broadened in 2008 to reach about 2 million. Through the program "Universidade para Todos – ProUni" (University for All), created in 2004, the Brazilian state fosters the granting of scholarships in private higher education institutions for students with family per capita income lower than three minimum salaries - offering exemption from some taxes to institutions that join the program. A percentage of the scholarships is earmarked for African-descendants, indigenous groups and disabled people. ProUni boasts currently more than 1,400 participating institutions and benefits more than 300 thousand students. For 2008, the goal is to offer 180 thousand scholarships.

3.7 Right to health

... The policies of incentive to breastfeeding, increase of vaccine coverage and access to the pre-natal examination, associated to the investment in urbanization and in basic sanitation caused the mortality rate of children up to five years old to decrease one-half in Brazil²². However, the challenges imposed by the poverty, social inequality and ethnic-racial discrimination are yet to be overcoming.

3.8 Right to Work

Public policies of the Brazilian Government for the promotion and compliance with the right to work are based on the concept of "decent work"²⁶, formulated in the scope of the ILO in 2003. For its compliance, the "National Agenda of Decent Work" was introduced in 2006, which priorities, strategies and expected results have been elaborated in process of consultation to organizations of workers and employers. The Government priorities to make effective the right to work consist in the generation of more and better jobs; the eradication of forced and child work; and the strengthening of the social dialog - which are still challenges to be faced by the Brazilian Government.

3.10 Right to Public Security

... In order to guide the police action in accordance with citizenship principles and the fundamental rights, the Government is providing courses to police officers with emphasis in human rights (which have already been attended by about 450 thousand people), is consolidating mechanisms of external control of the police activity (such as the Police Ombudsman) and encouraging, in the capacity building courses, the use of non-deadly weapons and of the most modern techniques of legally authorized use of force in a progressive manner. In addition to that, the Government launched, in 2007, the National Program of Public Security with respect to the Principles of Citizenship ("Programa Nacional de Segurança Pública com Cidadania - PRONASCI"), which basic guideline is the articulation between the public policies in the security area and social programs, with priority to crime prevention and respect to the human rights. The challenge of the PRONASCI to fight against the organized crime, focusing its strategies of corruption in the penitentiary system to ensure the security of citizens. The program has been elaborated aiming at reaching the violence causes without waiving the strategies of social ordering and qualified repression. Its fundamental guidelines are: (i) qualification and valuation of professionals which work in the public security sector; (ii) the re-structuring of the penitentiary system; (iii) the fight against police corruption; and (iv) the involvement of the community in violence prevention programs. PRONASCI is focused on the youth, trying to lead young people in situation of vulnerability to engage in social programs. It must be reminded that violence is the death cause of 68.2% of the young people from 15 to 24 years old in the country, a rate that causes concern if compared to worldwide indicators.

3.14 Rights of the Indian Population

... To tackle this problem, in 2004, the Brazilian Government created the Indigenist Policy Management Committee, composed by representatives of Ministries related to the subject, to meet the urgent demands that caused the death of Indian children by malnutrition. That initiative succeeded. The previous situation was faced by integrating both emergency and structural actions. The main steps aim at the following objectives: reduction of the dependence of the communities from the food baskets given by the Government; provision of proper legal assistance through the specialization of local players; recognition of the traditional lands for future relocation (it is the most important structural measure); implementation of family and community relationship plan - which reduces the process of family separation and religious intolerance - and the strengthening of the guarani cultural values and identity, among others.

3.15 Rights of the Child and Teenager

Brazil was among the first countries to enact, in 1990, a legal framework in accordance with the principles adopted in the Convention on the Rights of the Child. Since then, the public policies in this area are based on the principle of full protection, as consolidated in the Child and Teenager Act (ECA). The principle of full protection acknowledges the peculiar condition of development of children and teenagers, the universality of their rights and their outstanding role.

The ECA comprised the following initiatives to tackle the main problems concerning children and teenagers in jeopardy: the creation of specialized Justice Courts, Public Prosecution Service and Police Offices; the approach on multidisciplinary policies; a decentralized decision process on public policies; coparticipation of public officials and NGO members on deliberative Councils; and the creation of specific funds for the approved policy actions. The main advances in the area led to new national plans to fight against sexual violence; to prevent and eradicate child labor; to guaranty the right to family and community relationship; and to establish a National System of Social-Educational Service (SINASE). Besides those achievements, it was launched in 2003 the "Plano Presidente Amigo da Criança e do Adolescente" (President Friend of the Child and Teenager Plan), in compliance with the Millennium Development Goals, which is monitored by a network of civil society entities in order to collect data on violence against children and teenagers. From the available information, Brazil launched, in 2007, the Child and Teenager Social Plan, involving actions in strategic areas to fight against violence.

In 2007, the VII National Conference on the Rights of the Children and Teenagers was held to review the advances and challenges concerning the public policies on the ground. For the first time since 1993, it was adopted a decision making process in which the recommendations issued by the Conference should have deliberative status.

The Government is gathering efforts in order to face the social pressure for a more rigorous penalty to teenagers in conflict with the law. To this date, there are 32 proposals of amendment to the Constitution filed at the National Congress to lower the age for criminal responsibility. Brazil shows, on the other hand, serious violations of the rights of children and teenagers, illustrated by the high rate of

homicides of young people (5,998 in 2006)³⁶; by the existence of unsupported children and teenagers, mainly in large cities; by the cases of domestic violence; and by the illegal imprisonment of teenagers in public jails (as it happened in recently published cases of two teenagers placed in prisons in Abaetetuba and Planaltina de Goiás, cities located in the Northern and Central-Western regions, respectively).

The Program of Fight Against Abuse and Sexual Exploration of Children and teenagers has been created in 2002. It foresees integrated actions among several Government entities for a diagnosis of the stage, geographic distribution and causes of sexual exploration in Brazil; to qualify professionals in the matters of prevention, defense, liability and care to the victims; and to receive and forward the violation accusations. The follow-up of the Program is made by an inter-sector commission, comprised of about 40 representatives of the Government, of the civil society and of international entities.

For the first time in the country, it will be launched, by means of the Child and Teenager Social Plan, the "Bem-me-quer" project, which aims at developing an integrated system of protection to children and teenagers most vulnerable to the violence, in eleven metropolitan regions of the country. The initiative enabled Brazil to be the headquarters of the III World Congress of Fight Against Sexual Violence (organized by the Brazilian Government, UNICEF and ECPAT), to be held in the City of Rio de Janeiro, in November 2008, with the foreseen attendance of representatives of more than 130 countries, about 4,000 people, including teenagers.

The child labor is fought by the Program for Eradication of the Child Work (PETI). The main purpose of the Program is to take children and teenagers, from 7 to 14 years old, out of labor market, especially those considered as dangerous, hard, unhealthy or degrading. The families included in the program receive a monthly allowance for each child taken out of work; for such purpose, the children and teenagers shall attend the school in an enlarged shift, which includes sports, educational and leisure activities. The child labor in the country has increased from 2004 to 2006. The occupation rate of children in 2004 were about 5,365,000 (11.8% of the Brazilian population from 5 to 17 years old) and in 2005 this number has grown to 5,520,000 (12.1%). In 2006, the rate decreased, with the record of 5,120,000 working children (11.45%)³⁷.

3.17 Rights of the Disabled People

Disabled people, in Brazil, are a population segment especially subject to discrimination and violation of the human rights. According to data of the IBGE Census 2000, 14.5% of the Brazilian population show some type of disability; 70% of these people live below the poverty line; 30% are illiterate or attended the school less than three years and 90% are out of the work market.

Compilation of UN information

2. The Committee on Economic, Social and Cultural Rights (CESCR) noted with appreciation that the Constitution incorporates a wide range of human rights, including, a number of the economic, social and cultural rights enshrined in the ICESCR, as also noted by UNESCO.²⁴ The Special Rapporteur on the sale of children, child prostitution and child pornography²⁵ noted that the Constitution gives absolute priority to children's rights.²⁶ The Committee on Rights of the Child (CRC) welcomed the fact that the Constitution also criminalizes acts of racism.²⁷ UNHCR noted positively the adoption of Constitutional Amendment n. 54 of 20 September 2007, which grants Brazilian nationality to children born to a Brazilian parent living abroad once they are registered with a Brazilian consulate.²⁸ In 2005, the Human Rights Committee (HR Committee) was concerned about the ineffectiveness of a new mechanism in the Constitution allowing the Prosecutor-General of the Republic to seek transfer of certain human rights violations from state to federal jurisdiction. Brazil should ensure that the constitutional safeguard of federalization of human rights crimes becomes an efficient and practical mechanism.²⁹

4. Five Committees welcomed the establishment of bodies intended to enhance respect for human rights³⁵, such as the National Human Rights Secretariat.³⁶ However the HR Committee regretted in 2005 the proposed significant reduction in the budget of this Secretariat. It recommended that the State strengthen the Secretariat and provide it with adequate resources.³⁷ The HR Committee and CAT welcomed institutional measures to protect human rights in Brazil.³⁸ CERD and the HR Committee noted the establishment of specialized institutions to combat racial discrimination³⁹ and slave labour.⁴⁰ CRC and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance⁴¹ recommended establishing an independent and effective mechanism in accordance with the Paris Principles.⁴²

5. The Special Representative of the Secretary General (SRSG) on the situation of human rights defenders appreciated the initiatives that the Government has taken to give prominence to the promotion and protection of human rights.⁴³ Five treaty bodies welcomed policies and programmes in Brazil in critical areas of women's lives⁴⁴, in the fields of combating discrimination⁴⁵ and child labour.⁴⁶ CRC encouraged the State to ensure that the National Plan of Action for 2004-2007 covers all areas of the rights of the child.⁴⁷ CEDAW recommended the State to fully implement its National Policy for Fighting Trafficking in Persons and complete, without delay, the elaboration of the national plan on trafficking in persons, which should include a gender, race and age dimension.⁴⁸ While noting the adoption of various programmes and plans to promote human rights, the HR Committee regretted the general absence of specific data to permit evaluation of their practical enjoyment.⁴⁹

9. Discrimination faced by some ethnic groups raised concerns for CESCR in 2003, and CERD and CRC in 2004. The latter was concerned by some cultural and social practices and by the persistence of unequal social development in regions, specifically in the North and Northeast regions.⁸² CESCR expressed concerns about the widespread and deeply rooted discrimination against Afro-Brazilians, indigenous peoples and minorities.⁸³ CRC urged Brazil to ensure the implementation of existing laws and policies guaranteeing the principle of non-discrimination, and to adopt a comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.⁸⁴ Recommendations included: providing statistical information on racist crimes⁸⁵; taking urgent measures to ensure equal opportunity for Afro-Brazilians, indigenous peoples and minority groups, such as Gypsies and the Quilombo communities, especially in the fields of employment, health and education.⁸⁶

10. In 2007, the Special Rapporteur on extrajudicial, summary or arbitrary executions⁸⁷ noted that homicide was the leading cause of death for persons aged 15 to 44, with 45,000 to 50,000 homicides committed every year. Victims were overwhelmingly young, male, black, and poor. Main problems included high rates of impunity, violent killings by individuals, lethal confrontation between drug traffickers and other gangs, killings by vigilante groups, death squads, extermination groups, and militias, killings in prison, killings of police and by the police.⁸⁸ The Special Rapporteur stressed the distinction between extra judicial executions by on-duty and off duty police.⁸⁹ The HR Committee was concerned about the widespread use of excessive force by law enforcement officials.⁹⁰ It also expressed concern about widespread reports of threats against and murders of rural leaders, human rights defenders, witnesses, police ombudsmen and judges⁹¹ as well as about the extrajudicial execution of suspects.⁹² Furthermore, CRC remained extremely concerned at the number of children murdered.⁹³ The SRSR on the situation of human rights defenders was perturbed by the numerous accounts of assassinations, attempts on their lives and threats.⁹⁴ Recommendations included implementing witness protection programmes.⁹⁵ The Special Rapporteur on extrajudicial executions highlighted that the police forces require genuine external and internal oversight as the police ombudsmen lack true independence in many states.⁹⁶

11. While noting in 2004 that the 1997 Law on Torture, the Penal Code and the Statute of the Child and Adolescent strongly prohibit torture and ill-treatment, CRC expressed deep concern regarding the gap between the law and its implementation, as a significant number of cases of torture, inhuman and degrading treatment have been reported over the last years, including by the Special Rapporteur on the question of torture.⁹⁷ In 2005, CAT stated that tens of thousands of persons were still held in delegacias (police stations) and elsewhere in the penitentiary system where torture and similar ill-treatment continued to be “meted out on a widespread and systematic basis” according to the Special Rapporteur on the question of torture in 2001.⁹⁸ The HR Committee was concerned about the use of torture to extract confessions from suspects and the ill-treatment of detainees in police custody.⁹⁹ CAT also stated in 2005 that judges do not apply the law on the crime of torture and prefer to classify cases as bodily harm or abuse of authority.¹⁰⁰ CAT recommended that the law on torture is interpreted in conformity with article 1 of the CAT Convention¹⁰¹ and that complaints alleging torture by public officials should be promptly, fully and impartially investigated and offenders prosecuted.¹⁰²

13. In 2004, CRC expressed its concern that corporal punishment was widely practised and that no explicit legislation existed to prohibit it. It recommended that the State prohibit corporal punishment in the family, school and penal institutions, and that it undertake campaigns that educate parents on alternative forms of discipline.¹⁰⁵ CRC was also deeply concerned at the high number of children victims of violence, abuse and neglect, including sexual abuse, in schools and other institutions, public places and in the family. Recommendations included establishing effective child-sensitive procedures and preventive mechanisms to receive, monitor and investigate complaints in addition to existing procedures.¹⁰⁶ According to the Special Rapporteur on the sale of children, strategies should be envisaged to focus more on the areas of the National plan to fight sexual violence against children and adolescents where there has been less achievement, namely prevention, defense and accountability, and child participation.¹⁰⁷

14. The situation of street children and the absence of information and measures needed to remedy their plight raised concerns of the HR Committee.¹⁰⁸ In 2004, CRC expressed grave concern at the significant number of street children and their vulnerability to extrajudicial killings, various forms of violence, including torture, sexual abuse and exploitation; at the lack of a systematic and comprehensive strategy to address the situation and protect these children; and at the very poor registration of missing children by the police.¹⁰⁹

15. The Special Rapporteur on extrajudicial executions noted in 2007 that the occupancy rate in prisons was often three or more times as many prisoners as the facility was designed to hold.¹¹⁰ The Special Rapporteur on torture stressed on several occasions that the appalling overcrowding in some detention facilities and prisons needs to be brought to an immediate end.¹¹¹ CAT found in 2005, endemic overcrowding, filthy conditions of confinement, extreme heat, light deprivation and permanent lock-ups (factors with severe health consequences for inmates), along with pervasive violence.¹¹² The HR Committee was also concerned about inhuman conditions of detention in jails.¹¹³ Further, CRC expressed concern about the large number of persons below the age of 18 who are in detention, and at the very poor conditions of detention. CRC was also concerned at the numerous reports of ill-treatment of young inmates, the very limited possibilities for the rehabilitation and reintegration into society of juveniles following judicial proceedings; and the sporadic training of judges, prosecutors and prison staff in children’s rights.¹¹⁴ In 2007, the High Commissioner for Human Rights noted that the widespread use of pre-trial detention called for special attention.¹¹⁵ CAT expressed concern about the long periods of pre-trial detention and delays in judicial procedure.¹¹⁶ CAT in 2001 and the HR Committee in 2005 recommended Brazil to take urgent measures inter alia to improve conditions of detention.¹¹⁷ CAT also recommended establishing a systematic and independent system to monitor the treatment in practice of persons arrested, detained or imprisoned¹¹⁸, including in places of detention of juveniles according to the Special Rapporteur on the question of torture.¹¹⁹

16. The HR Committee and CESCR were concerned about trafficking in women and children for the purpose of sexual exploitation.¹²⁰ CRC was also deeply concerned by the wide occurrence of sexual exploitation and related issues.¹²¹ Recommendations included: encouraging and facilitating the reporting on incidents of sexual exploitation, investigating, prosecuting and imposing appropriate sanctions on perpetrators; providing protection to victims of sexual exploitation and trafficking.¹²² According to the Special Rapporteur on the sale of children, addressing the root causes of sexual exploitation is essential. He recommended that the Government strengthen social programmes aimed at the reduction of poverty and social inequalities and assess their impact with indicators related to children’s rights.¹²³ CESCR in 2003 and CEDAW in 2007 recommended that the State adopt a specific legislation against trafficking in persons and ensure its effective implementation.¹²⁴

18. In 2004, CRC was deeply concerned at the high rates of informal employment of children.¹²⁷ Among other measures, it recommended that the State strengthen its Programme to Eradicate Child Labour and to improve the labour inspection system.¹²⁸

20. In 2004, CRC noted the establishment of juvenile courts, but was concerned at the lack of clear guarantees for a fair and speedy trial and at the lack of enforcement of rules for pre-trial detention. CRC recommended that the State continue its efforts to improve the system of juvenile justice in line with the CRC Convention and other UN standards.¹³⁴

24. CESCR welcomed the creation within the State of independent special rapporteurs responsible for monitoring economic, social and cultural rights.¹⁴⁷ While taking into account the high priority given to fighting hunger and poverty, CRC noted that Brazil is a country with a relatively high level of development, and shared the concerns of CESCR related to the persistent and extreme inequalities and imbalances in the distribution of wealth and resources.¹⁴⁸ It was concerned that the lives of a great number of children are marked by poverty, difficult access to, and deficient quality of, public services.¹⁴⁹ CESCR recommended that the State take immediate remedial action to reduce those inequalities and imbalances, including speeding up the processes of agrarian reform and of granting land titles.¹⁵⁰ Furthermore, the Special Rapporteur on racism, while acknowledging the commitment of the Government to the recognition of the Quilombos communities, recommended that Brazil guarantee them the provision of fundamental goods and services such as food, health, housing and education.¹⁵¹ The Food and Agriculture Organization (FAO) noted the Food Security Framework Law approved in 2006, which establishes adequate food as a basic human right and indispensable to the realization of the rights established by Constitution. It contains provisions for the establishment a national food and nutrition security system.¹⁵²

25. CRC welcomed the State's efforts to improve the health level, in particular the establishment of the Minimum Healthcare Allocation in 1998. It noted the reduction of child mortality as well as the positive changes observed in the child profile and in the HIV/AIDS incidence. CRC remained concerned at the low percentage of the population covered by at least one health plan; at the inequality in access to health services; about health conditions, particularly of children in rural areas, resulting in marked disparities in the quality of health services and of the lower socio-economic segments of the population in the North and Northeast regions.¹⁵³

26. CRC was concerned by the high rates of early pregnancy that mainly affect the socially underprivileged segments of the society.¹⁵⁴ CESCR¹⁵⁵ and CEDAW¹⁵⁶ noted with concern the high rate of maternal mortality due to illegal abortions, particularly in the northern regions. CESCR was concerned about the persistence of forced sterilization.¹⁵⁷ It requested the adoption of legislative and other measures, including a review of the present legislation, to protect women from the effects of clandestine and unsafe abortion.¹⁵⁸ CRC recommended that the State further improve the adolescent health programme addressing, specifically, reproductive health issues, sex education and mental health.¹⁵⁹

28. In 2004, CRC expressed concern about the remarkable disparities of access, regular attendance, dropouts and retention of children in schools across the country affecting particularly the poor, the mestizo children, those of African descent and children in remote areas. The Committee was also concerned about the low quality of education in many schools¹⁶¹ and about the low educational opportunities of indigenous children.¹⁶² It recommended inter alia that the State increase its expenditure on education and ensure the allocation of budgets at all levels, and to strengthen its efforts to improve the quality of education.¹⁶³ Recommendations by CRC and CERD also included: pursuing measures to effectively address the gap in life opportunities of indigenous children¹⁶⁴ and adopting adequate measures to combat illiteracy.¹⁶⁵

29. CERD noted that the report has not provided sufficient information on cultural rights of persons belonging to minorities, in particular on their right to receive education in their own languages, and requested further information in this regard.¹⁶⁶ CRC recommended that the State take adequate measures to provide protection for the rights of indigenous children, in particular their rights to preserve their historical and cultural identity, customs, traditions and languages.¹⁶⁷ The Special Rapporteur on racism recommended the allocation of appropriate resources in order to allow the implementation of a differentiated indigenous educational system, as provided for in Regulation 3 of the National Council for Education.¹⁶⁸

31. In December 2007, the High Commissioner for Human Rights noted the State's demonstrated leadership at the international level in human rights and made significant achievements in the fights against poverty and HIV/AIDS.¹⁷⁷ In September 2006, the Law No. 11.346 was enacted, recognizing the right to food and the obligations of the Government in this regard.¹⁷⁸ UNICEF, World Health Organization (WHO) and World Bank reports noted that Brazil's national response to HIV/AIDS has often been cited as exemplary.¹⁷⁹ According to the 2005 UNICEF State of the World's Children, Brazil is one of the only developing countries to make antiretrovirals widely available.¹⁸⁰ More generally, the 2005 UNDP Human Development Report stated that Brazil has saved lives thanks to vigorous public health policies that improve access to medicines.¹⁸¹ The Special Rapporteur on the independence of judges and lawyers considered that the Statute of the Child and Adolescent provided an exemplary system of guarantees, also noted by UNICEF and UNFPA.¹⁸² Furthermore, the Special Rapporteur on the sale of children pointed out that the First Court of Childhood and Youth of Rio Janeiro was a best practice.¹⁸³

32. The High Commissioner for Human Rights also stated that challenges remained, particularly in the administration of justice and the enforcement of other rights enshrined in the Constitution and especially with regards to indigenous rights.¹⁸⁴ The Special Rapporteur on extrajudicial executions recognized that the cities faced enormous challenges in keeping their residents safe from the violence of gangs.¹⁸⁵ Referring to the situation analysis undertaken for the Secretary-General's Study on Violence Against Children which demonstrated that violence in every age group in Brazil has increased over the last decade, UNICEF noted that this was one of the most serious challenges in the country.¹⁸⁶ While acknowledging the federal structure of Brazil, the HR Committee was also disturbed by the failure of the judiciary in some states to act against human rights violations.¹⁸⁷ The issue of inequalities was highlighted by UNICEF.¹⁸⁸ A UNDAF document stressed that inequality remains a central national characteristic and thus set it out as one of the main priorities for the current 2007-2011 UN programming cycle.¹⁸⁹

35. In 2004, CRC recommended that the State request technical assistance from, among others, OHCHR, UNICEF and the Inter-American Children's Institute, in the area of juvenile justice and police training, as well as for the establishment of an independent and effective mechanism in accordance with the Paris Principles.¹⁹² Regarding violence against children, it also recommended that Brazil seek assistance from UNICEF and WHO.¹⁹³ UNHCR and UNICEF submitted information regarding their capacity-building programmes and activities.¹⁹⁴

Summary of stakeholders' information

1. Amnesty International (AI) stated that since the adoption of its new Constitution in 1988, Brazil has boasted some of the most progressive laws for the protection of human rights in the Latin American region. Legislation to combat racism (1989), to protect children and adolescents (1990), to prosecute military police in civil courts in homicide cases – “lei Bicudo” (1996), to combat torture (1997) and to combat domestic violence (2006) have all been recognized as essential benchmarks for the protection of human rights. However, there remains a huge gap between the spirit of these laws and their implementation. AI noted also several attempts by authorities to reduce protection under some of these laws. Similarly though the lei Bicudo, the law against torture and the 2006 Maria da Penha law on domestic violence, constitute important victories for human rights and women’s movements, they have not been followed by the adequate infrastructure, resources and political will which would allow their effective implementation.²

9. According to the National Association of Centers for Defense of Child Rights (ANCED), since the enactment of the Children and Adolescents Statute in 1990, thousands of Councils for the rights of children and adolescents for the development and control of policies and Protection Councils (known as “Tutor Councils”) have been established and although representing an advancement, these have been operating below the desirable levels.¹⁶

19. CLADEM noted that while the legislation introduced free birth registration for persons declared in situation of poverty, access to this right is not yet guaranteed. It is estimated that 20 of the 170 million inhabitants in Brazil are not registered, due to economic factors, cultural reasons, as well as patriarchal traditions. In the poorest regions, the popular belief to wait until the child is one year old to register him/her also contributes to the lack of birth registration. The Federal Government has conducted public campaigns as well as a National Mobilization Programme for Civil Registration in 2003 and 2004.³⁷

25. The lack of prohibition of corporal punishment of children in all settings (home, schools and penal system) has been raised by the Global Initiative.⁵⁷ A Bill proposing amendments to the Code on Children and Adolescents and the Civil Code, prohibiting corporal punishment in all settings was formally approved in the House of Representatives in January 2006, but an appeal introduced by the Evangelical Group prevented it from moving to the Senate. As at September 2007, consideration was being given to re-submitting the Bill in 2008.⁵⁸ The Global Initiative recommended the introduction of this piece of legislation as a matter of urgency.⁵⁹

26. HRW indicated that children and adolescents are subjected to serious abuses by the juvenile detention system.⁶⁰ ANCED reported a large number of violations (torture, cruel treatment, negligence and death), many of which they note, have already been taken to the Inter-American System of Human Rights.⁶¹ FIACAT-ACAT/Brazil remarque que les enfants et les adolescents sont détenus à la Fondation CASA (Centre d’Attention Socio-éducatif à l’Adolescent) qui est connue pour pratiquer la torture sur les mineurs qui y sont incarcérés.⁶²

29. This is another issue. According to Rede Femenista sexual exploitation in Brazil takes place through various modalities: traditional prostitution; trafficking for sexual ends and sexual tourism between Brazil and foreign countries; pornography through traditional print media and through Internet, which includes. According to Rede Femenista, the phenomenon of sexual exploitation was put on the political agenda in 2003 and 2004, with the establishment of the Joint Legislative Inquiry Commission of the National Congress. The Commission recommended the filing of charges against 200 persons (among which politicians, judges, business people, athletes, religious leaders, and police officers) and also made proposals for public policy and legislative reform, in particular regarding the Penal Code. The vulnerability of women to sexual exploitation and trafficking was also raised by CLADEM indicating that the National System to Combat Sexual Exploitation of Children and Adolescents, with a free national telephone line to receive reports and monitoring of the policy is precarious and insufficient.⁷¹

30. According to Rede Femenista the issue of sex trafficking predominantly affects black and “dark” women and girls between the ages 15 and 27, generally from poorer classes, with low levels of education, living on the margins of urban areas. According to the results of a study conducted during the same period, the governmental system of registration of the crime of trafficking is extremely deficient and police authorities have little training to assist victims. The study also noted the difficulties in dismantling trafficking networks, and recommended the development of strategies to address the problem through the creation of local networks and the mobilization of the population to act by filing complaints on cases of trafficking in order to give visibility to the issue.⁷²

32. FIACAT – ACAT/Brazil rapporte que de nombreuses personnes ayant déjà accompli leur peine se plaignent d’être maintenues en prison. Dans la majorité des cas les prisonniers n’ont pas les moyens d’avoir un défenseur public ou un avocat qui puissent suivre leur dossier.⁷⁶ ANCED noted that the right to defense is one of the most violated rights regarding adolescents in conflict with the law indicating that many are deprived of their liberty without having ever had access to legal counsel. According to information provided by ANCED, the Ministry of Justice published in 2006 a diagnosis of the Public Defense Attorney in Brazil, which indicated that 40% of the country’s municipalities enjoy the support of public defense attorneys, and that only 56% of them keep regular shifts in centres for adolescents deprived of liberty.⁷⁷

40. The Instituto Antígona reported about some cases of forced sterilization of women - mainly of poor and black women.¹⁰¹ Rede Femenista reported an increase in the number of women adults infected with the HIV virus, the ‘ruralization’ of the problem and HIV transmission from infected mother to baby during pregnancy, childbirth or breastfeeding.¹⁰² The Red Brasileña por la Integración de los Pueblos (REBRIP) raised the problem related to patents in the ‘pipeline’ that limits the purchase or production in Brazil of generic medicines. It recommended the evaluation of related obstacles generated by the legal framework of the so-called intellectual property rights.¹⁰³

Final Report

On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Brazil:

Gabon, Saudi Arabia, and Switzerland. The delegation of Brazil was headed by H.E. Mr Rogério Sottili, Executive Secretary, Special Secretariat of the Presidency of the Republic on Human Rights.

(i) Summary of the State under Review

- Brazil noted that the country continues to face violence and many forms of exploitation, including forced labour and sexual exploitation, including of children and adolescents. Within the framework of the Statute on Children and Adolescents (Estatuto da Criança e do Adolescente), action plans to overcome these issues have already been put in place as children and adolescents are amongst the Government's priority goals.
- Brazil will also host the Third World Conference on Combating Sexual Exploitation of Children and Adolescents with an anticipated participation of 130 countries, as well as the 2008 preparatory regional conference for the 2009 Durban Review Conference.
- A special secretariat has been created to promote access to education, health, labour and land for all ethnic and racial groups.
- The Brazilian delegation stated that children and adolescents are amongst the Government's priority goals. In this regard, Brazil will hold the Third World Conference on Combating Sexual Exploitation of Children and Adolescents.

(ii) Interactive dialogue and responses by the State under Review

- Slovenia enquired about the actions undertaken by the Government to reduce the alleged number of adolescents deprived of liberty, as it has grown by 325 per cent between 1996 and 2006, and this is a very worrying signal.
- Malaysia enquired about Brazil's achievements in education, specifically with regard to guaranteeing education for the segments of the population living in remote areas.
- Regarding the right to education and Brazil's Education Development Plan within the framework of development strategies aimed at reducing inequalities among vulnerable groups, Ghana asked whether the Plan or other strategies included programmes to address youth violence.
- France noted the considerable progress made regarding children's rights, despite the remaining difficulties in large cities and the poorest states. However, France stressed the parliamentary proposals of constitutional amendment to lower the age of criminal responsibility. Referring to Brazil's national report, France noted the action undertaken by the Government to combat the social pressure that calls for such reform. In this regard, France wished to know where the discussions will lead to.
- Norway mentioned as example of best practices the Government's efforts to combat child labour.
- Brazil concurred with Slovenia, Azerbaijan and Colombia that violence against women and children is still taking place. However, two national plans have been designed in collaboration with civil society to reduce inequality and to mainstream gender issues in public policies. It is also modifying its legislation with regard to family violence and violence against women. Brazil noted that it is taking comprehensive actions in conjunction with state governments and municipalities to establish indicators whenever family violence occurs. This new initiative covers four areas including sexual exploitation and reproductive rights.
- The United States asked about measures Brazil has taken to address allegations of torture in the juvenile and adult penal systems, and to improve prison conditions.
- While acknowledging Brazil's significant progress in the area of education, food, health and combating extreme poverty, Senegal stressed the need for Brazil to continue to provide the same opportunities to its citizens of African descent as those provided to its other citizens to fully integrate them within Brazilian society.
- Regarding women's rights and violence against women, Chile mentioned Brazil's challenge of promoting a cultural change of the professionals that apply the 2006 Maria da Penha Law and asked Brazil to provide more information on this topic.
- Chile agreed with Brazil that the right to education is a fundamental element in combating poverty, noted Brazil's high attendance rate for children between 7 and 14 years old, and enquired about the measures taken to ensure that children do not drop out of school.
- The United Kingdom noted with concern human rights abuses associated with the criminal justice system, particularly within the juvenile justice system, as well as reported violence and extrajudicial killings committed by state military police.
- Guatemala was impressed by the school attendance rate of 97.4 per cent for children between 7 and 14 years old, and identified this high rate as an example of good practice. Guatemala enquired about the measures that were taken resulting in such a success, as well as any difficulty encountered.
- Germany asked about the measures envisaged by the Government to rapidly improve the living conditions in re-educational facilities for young people.
- Ecuador requested that Brazil indicate its main challenges with regard to the President Friend of the Child and Teenager Plan and how to address the issue of street children. It also asked whether Brazil considered bilingual teaching in its education plans as a method to fight against poverty and consolidate cultural diversity.
- Palestine praised the success of Brazil in terms of promoting education and its valuable experience in that domain, and enquired about sharing its practices with other countries.

- Indonesia congratulated Brazil on its human rights legislation and requested further clarifications on several areas where instances of abuse had been reported, namely with regard to children and women's rights. Beginning with the rights of the child, Indonesia referred to the issue of juvenile detention and enquired about the most recent policies developed in that field.
- Japan asked whether statistical figures illustrate how much fairness has been achieved in educational institutions.
- Japan praised Brazil's actions to fight sexual exploitation of children and adolescents and welcomed the Third Conference on this issue to be hosted by Brazil. Japan wished to know how acutely the Government views the relation between this initiative and its efforts.
- Bangladesh asked Brazil about its view on the recommendation of the Committee on the Rights of the Child to request technical assistance in the area of juvenile justice and police training as well as for the establishment of an independent and effective human rights institution.
- In response to Morocco, South Africa and Jordan, Brazil noted that regarding education and extreme poverty, strategies are focused on setting up social programmes and improvement in agrarian reform and work on infrastructure that would lead to the creation of jobs and improve education. Brazil noted that it is centralizing efforts to reduce extreme poverty and to eliminate inequalities. Challenges regarding quality have been noted. Reference was made to the Family Allowance programme which reaches a number of children and aims to increase school attendance.
- Regarding education, the State has prioritised the history of Africa and of the indigenous peoples with the aim of promoting the education on how Brazil was formed. As regards children of indigenous peoples, it was noted that Brazil is seeking to increase school attendance in higher education. There are currently 38 public universities in 22 states. Affirmative action in entrance is being adopted, including by providing scholarships.

Conclusion and Recommendations

- While continuing its positive initiatives, invest more rigour in evaluating the outcomes of planned activities in many of these areas: prisons conditions, criminal justice system, juvenile justice system, violence and extrajudicial killings committed by state military police, torture, protection of human rights defenders, violence against women, indigenous communities, rural violence and land conflict, child and slave labour, impunity for those involved with human trafficking and corruption (United Kingdom);