



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 44 of the Convention

Combined second to fourth periodic reports of States parties  
due in 2007

**Brazil\***

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\* The present document is being issued without formal editing.

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\*\* Annexes can be consulted in the files of the secretariat.

## Introduction

1. Brazil, as a State Party to the Convention on the Rights of the Child, presents its Periodic Report for the period 2003 to 2007. The previous Brazilian report, concluded in 2002, detailed the process that led to the Brazilian Federal Constitution in 1988, and the Law 8.069, of July 13<sup>th</sup> 1990, known as the Statute of the Child and Adolescent (ECA). The rights and principles enshrined in the Brazilian Constitution for the protection of children and adolescents became the building blocks for the implementation of the “Doctrine of Integral Protection”, which aims at the promotion, protection and defense of the rights of this population.

2. In the same year that the ECA was enacted (1990), the Convention on the Rights of the Child was also ratified. Such a coincidence was a symbol of the importance of the momentum given to the enhancement of child rights policies in Brazil. Since ECA embodies in the national sphere the rights set forth in the Convention on the Rights of the Child, assessing the implementation in Brazil of the rights enshrined in the Convention also means assessing the implementation of the Statute.

3. Brazil is the fifth largest country in the world in both territorial dimensions and population. It is a Federative State, composed of 26 member states and a Federal District that have autonomous political-administrative organizations and legal systems. Federalism implies de-centralization, social participation and management of public policies by states and cities, but it also limits the interference and decision power of the federal sphere. In order to make the federative pact operational, it is necessary to define and create spaces of political coordination to promote and protect the rights of children and adolescents in all governmental spheres.

4. Data from 2007 shows that Brazil has a population estimated in 183.9 million people, of which 62 million are under 18 years old. Among these, 29.6 million people live in poverty, of which 66% are black. Approximately 11.5 million children under six years old, or 56% of the total 21 million, live with a monthly income of less than a half minimum wage per capita, according to data of the National Research per Sample Domiciles [PNAD] made by the Brazilian Institute of Geography and Statistics [IBGE]. Children of African descent have 70% higher risk of living in poverty than white ones, and children living in rural areas are twice as vulnerable to poverty as those living in urban areas. The rate of the general Brazilian population living in poverty is of 31.5%, and comes up to 50.3% when considering only children between 0 and 17 years old.

5. Over the period covered by the report, improvements were registered on the standard of living of children and adolescents in Brazil, with a reduction of poverty and child mortality, a decrease in the percentage of malnourished children, an increase in general schooling rate and public school enrollment, as well as progress towards the elimination of child labor and improvements in the access of poorest communities to clean water, sanitation and electricity. The Child Development Index (IDI), calculated by the United Nations Children’s Fund (UNICEF) shows that no Brazilian state had an index below 0.5, considered low, in 2006.<sup>1</sup> These advances are mainly due to cash transfer policies for the poorest, especially in North and Northeast regions.

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<sup>1</sup> The child development index is composed by four basic indicators: children under six years living with parents with precarious education; vaccine coverage on children under one year; pregnant women with proper prenatal coverage; children enrolled into kindergarten.

6. The policies to protect children and adolescents from violence were reinforced, with the expansion of the network of Guardianship Councils, the creation of new channels for complaints, the creation of specialized justice and public security systems, as well as a set of special protection procedures in the health and welfare systems. Public policies aiming at combating grave violations of rights were developed, with promising results for the eradication of child labor and the construction of a national platform against sexual exploitation. Moreover, new policies for adolescents in conflict with the law and for the implementation of alternative measures to the placement of children and adolescents in institutions were formulated.

7. In the five years covered by this report, Brazil invested heavily on social policies and deepened its engagement in the promotion of human rights, especially of children and adolescents. The creation of the Human Rights Secretariat (SDH) in 2003, a body with ministerial status linked to the Presidency of Republic, was a milestone. Its structure includes the National Secretariat for the Promotion of the Rights of the Child and Adolescent, which is responsible for articulating policies and programs, both at the Federal level and at other governmental levels. During the period of this report, its actions centered on improving the interaction of different sectors and enhancing participative management policies, both of which are structural principles in the planning and management of human rights public policies in Brazil.

8. This report therefore summarizes and presents the actions of the Brazilian Government in the field of human rights of children and responds to the concluding observations made by the United Nations Committee on the Rights of the Child on its previous report. It was prepared with the participation of various Ministries, based on official data. After the first draft was concluded, the text was circulated to the same agencies for revision and suggestions, and submitted to the National Council of the Rights of the Child and the Adolescent (CONANDA).

9. In the beginning of each chapter we refer to the previous observations and recommendations of the Committee on the Rights of the Child to Brazil, followed by new information.

## **I. General measures of implementation**

### **A. Measures taken to mainstream the national legislation with the provisions of the Convention**

**The Committee recommended ensuring the full implementation of relevant legislation, in particular the Statute of the Child and Adolescent. The Committee also urged the federal Government to ensure that federal states and municipalities are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all states and municipalities through legislation and policies and other appropriate measures.**

10. Brazil's previous report to the Committee on the Rights of the Child presented the initial measures implemented in the country in order to harmonize its legislation. Brazil ratified, in March 2004, through the Decrees 5006 and 5007, two optional protocols to the Convention on the Rights of the Child: the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. It also ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption; the Conventions of the International Labour Organization (ILO) No. 138, on the minimum age for admission to employment and work, and No. 182, on the prohibition of the worst forms of child labour

and immediate action for its elimination; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against the Transnational Organized Crime (Decree No. 5017/04). According to the Brazilian Constitution, all ratified international instruments for the protection of human rights are incorporated into the internal legal system.

11. As to adjusting the national legislation and institutional landmarks between 2003 and 2007, decrees and federal laws were issued, as well as different ministries regulations, which represented advances to the rights of the child and the adolescent. CONANDA also issued a series of landmark resolutions (Frame 1). Considering the federative nature of the Brazilian state, it is extremely important to involve the legislative bodies in all levels with the topic of children and adolescent rights. Such a priority may be exemplified by the large amount of bills under analysis in the House of Representatives. Federal Congress and the Legislative Assemblies in the States of the Federation analyzed about 60 constitutional amendment projects and nearly 800 bills in 2007. In addition to the legislative process, the Brazilian legislative bodies can also monitor public policies and investigate violations through Investigatory Parliamentary Commissions (CPIs) at Federal (Congress) and State (Legislative Assemblies) levels.

12. However, not all bills under analysis are compliant with ECA and the Convention. Brazilian government and human rights movements acted to prevent the approval of controversial proposals for reducing the minimal age for criminal responsibility and for increasing socio-educational penalties applied to adolescents in conflict with the law. Furthermore, the National Council of the Rights of the Child and the Adolescent also issued a series of landmark resolutions (Frame 2).

## **B. Existing mechanisms (national and local) for coordinating policies related to children and supervising the implementation of the Convention**

**The Committee recommended developing an adequate system of coordination at all levels in order to ensure full implementation of domestic law and the Convention, in accordance with recommendations made by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.87), and by some of the United Nations Special Rapporteurs. The Committee recommends that the State party refer to its General Comment No. 5.**

13. Regarding this recommendation, the main improvement was the creation, in 2003, of the National Secretariat for the Promotion of the Rights of Children and Adolescents (SNPDCA), subordinated to the Secretariat for Human Rights (SDH), which is directly linked to the Presidency of the Republic. Beforehand, it was a division of the Human Rights Department of the Ministry of Justice and did not have the role of national management of the human rights policies.

14. SNPDCA has become the focal point within the Federal Government for the coordination, articulation and assessment of policies to ensure the rights of children and adolescents. By coordinating programs and commissions, SNPDCA takes up the main role as a link between the several governmental areas in charge of making the rights of children and adolescents effective.

15. SNPDCA also took up a leadership role in the System for the Guarantee of Rights of Children and Adolescents as a whole, working for the integration of the efforts of many governmental and the civil society institutions, as defined by the Conanda Resolution 113/2006. According to this landmark resolution, the System for the Guarantee of Rights of Children and Adolescents encompasses mechanisms and institutions responsible for the

implementation of the rights of children and adolescents on the federal, state, district and city levels (Frame 3).

## 1. Policy Management

16. Many initiatives were created and implemented on policy management, with the purpose of strengthening the promotion, protection and defense of rights, as well as the social control of their implementation.

17. To begin with, SNPDCA took the coordination role of six inter-sectorial and inter-institutional Committees (Frame 4). SNPDCA is also represented at the board of Members of Conanda and it is responsible for its executive bureau and for the management of the National Fund for Childhood and Adolescence. The representative of SNPDCA (SDH) was the president of Conanda in 2003 and 2007, and its vice-president from 2004 to 2006. SNPDCA also represents SDH on the National Youth Council and on the National Council for Drug Policy and other instances (Frame 5).

### 1.1 *Plan President Friend of the Child and the Adolescent – PPACA*

18. The Presidency of the Republic presented, on October 2003, the Plan “President Friend of the Child and the Adolescent”. PPACA was based on the results of the 2002 Special Session on the Child at the United Nations and established goals to be reached in the period between 2003 and 2006, in order to ensure progress in the protection of the rights of children, taking into account four general principles: 1) promote healthy lives; 2) ensure quality education; 3) protect against abuse, exploitation and violence; 4) fight HIV and AIDS. Such goals led to the identification of 16 challenges that the Federal Government proposed to face through a joint set of over two hundred actions. Its implementation was entrusted to an Inter-Ministerial Managing Committee, under SNPDCA coordination.

### 1.2 *Social Agenda of the Child and the Adolescent*

19. Launched by the President of the Republic in October 2007, the Social Agenda of the Child and the Adolescent focused on fighting violence against children and adolescents, one of the central Brazilian commitments in support of “A World Fit for Children” agenda, adopted at the United Nations Special Session on Children in 2002.

20. This is the main inter-sectorial initiative of the Federal Government on the issue so far. The Social Agenda articulates actions of fourteen Ministries and six state companies. It also involves pacts with states and cities of eleven metropolitan regions deemed as priorities. Because of the Federative structure of Brazil, the Federal government developed strategies such as the inclusion of the theme on the agendas of the meetings of the Mayors’ National Front, the Forum of States Managers of the Socio-educational System, the Collegiate of the States and Cities’ Welfare Secretaries, as well as the several Rights Councils.

21. The implementation of the Social Agenda involved four projects: “Bem me quer”, to strengthen the network for protection of children and adolescents victims of violence; “Caminho pra casa”, to foster family and community care and reduce the number of children and adolescents in institutions and shelters; “Na medida certa”, to implement the National Socio-Educational Care System and ensure social inclusion of the adolescents in conflict with the law; and the creation of the National Observatory of the Rights of Children and Adolescents ([www.obscriancaeadolescente.gov.br](http://www.obscriancaeadolescente.gov.br)), an internet portal to ensure transparency of data on the Social Agenda and to share local databases and de-centralized management tools.

22. A Managing Committee coordinated by SNPDCA is in charge of the implementation of the follow-up of its implementation, composed of eight Ministries and

Departments and supported by three inter-sectorial Commissions created to oversee national thematic policies (Sexual Violence, Socio-Educational System and Family and Community Living).

### *1.3 Pro-Council Brazil Program*

23. The Pro-Council Brazil Program was created in 2004 with the purpose of strengthening councils of rights, guardianship councils and funds for childhood and adolescence throughout the country as well as to help the formulation and social control of policies in this field. The Pro-Council was structured with four objectives: (a) to enhance the promotion, protection and defense of the rights of children and adolescents; (b) to offer training to members of councils of rights; (c) to improve knowledge of the reality of the councils of children and adolescents, guardianship councils and specific funds; (d) to encourage and provide guidance to the creation of councils of rights, guardianship councils and funds in cities and states where they do not exist yet. SNPDC/SDH established and coordinated, until 2006, a Consultation Group for the Program, composed by several agents of civil society.

### *1.4 National Social-Educational Care System – Sinase*

24. In the first semester of 2006, Conanda approved a new national policy on the care for adolescents in conflict with the law (Sinase). In its formulation and discussion, which began in the end of the 90's, governmental and non-governmental agents, specialists and many sections of the System for the Guarantee of Rights of Children and Adolescents of every region of the country were involved. The new policy is compliant with national regulations (Federal Constitution and ECA) as well as international standards accepted by Brazil, such as the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).

25. In October 2007, a Presidential Decree created the National Inter-Sectorial Commission for the Implementation of Sinase, under the coordination of SNPDC/SDH. The Commission is composed of representatives from five Ministries, as well as Conanda and agents from the Forum of States Managers of the Socio-educational System, and the Collegiate of the States and Cities' Welfare Secretaries.

26. The guiding principle of Sinase is the integration of socio-educational policy with other policies. It adopts a systemic perspective, from the assessment of the legal infractions to the implementation of socio-educational measures. Among its principles for management are: the prevalence of socio-educational measures in open environments, offered by municipalities; institutional incompleteness, with the use of as many community services as possible; the regionalization of admittance units; democratic and participative management; shared financial liability of the federate states; and mobilization of the society for the inclusion of adolescents in conflict with the law.

27. The pedagogic project defines a series of guidelines, such as the priority of socio-educational measures over merely sanctioning aspects, and the formulation of individual care plans, with the participation of the adolescent and family-based approaches. Architectonical parameters are also defined, with the deactivation of buildings modeled on prisons in favor of small-sized and regionalized admittance units with a physical structure that permits the offer of services such as schooling, health ambulatories, professional workshops, and cultural, sport and religious activities.



### 1.5 *National Plan for the Promotion, Protection and Defense of the Right of the Child and Adolescent to Family and Community Living*

28. Approved jointly by Conanda and by the National Welfare Council (CNAS) on December 2006, this Plan is the result of a participative process, involving joint elaboration by agents from all government levels and powers, civil society and international organizations. Its formulation took into account the discussions, still preliminary by then, on the United Nations Guidelines on the Alternative Care of Children deprived of parental care and the results of the List of National Shelters for Children and Adolescents (Ipea/Conanda), published on 2003. Before being adopted, the Plan was submitted to a public consultation process.

29. On October 2007, a Presidential Decree established the National Inter-Sectorial Commission to follow up on this Plan, coordinated by SNPDC/SDH and the Ministry of Social Development and Fighting Against Hunger (MDS). The Plan focuses on the fundamental right to family and community living, with proposals in four strategic axes: 1) situation assessment and information systems; 2) service care; 3) improvement on legislation and regulatory standards; 4) mobilization, articulation, and social participation. The Plan articulates strategic actions, such as welfare and family support programs, the reorganization of institutional shelter services and the implementation of new programs for welcoming families as well as those aimed at adolescents, and strengthening measures to facilitate the adoption of children whose profile is less desired by prospective parents.

### 1.6 *National Plan for Fighting Sexual Violence against Children and Adolescents*

30. SNPDC/SDH coordinates the Inter-Sectorial Commission entrusted with the implementation of this National Plan, approved in 2000. The Commission was established in 2003 and is composed by seventeen Ministries, civil society institutions and international organizations, as well as Conanda and the National Committee (which are responsible for formulating and monitoring the National Plan).

31. The initiatives of the Plan are distributed among several ministries, such as the Ministry of Social Development, which handles the Sentinel Service, that supports families; the Ministry of Education, which runs the Protecting School program to train teachers; the Ministry of Health, responsible for ambulatory and hospital care for victims and perpetrators of violence; the Ministry of Tourism, which runs the Child Sustainable Tourism Program; and the Ministry of Justice, responsible for the Federal Police Department.

32. SNPDC is also responsible for the Program to Combat Sexual Abuse and Exploitation of Children and Adolescents, created in 2002; it coordinates a national channel for the reporting of violations (Disque 100, a toll-free number presented on this report); supports the spread of good practices and promotes educational campaigns on the issue, especially during Carnival and on the May 18th, the national mobilization day to fight sexual violence against children and adolescents.

## 2. **Councils for the Rights of the Child and the Adolescent**

33. The Councils for the Rights of Children and Adolescents at the three governmental levels were established by the ECA, in order to enable popular participation and social control of public policies for childhood and adolescence. The councils consist of governmental and civil society representatives. At the Federal level, the National Council (Conanda) has the role of formulating the national policy for the rights of children and adolescents, of controlling and supervising its implementation, and also of regulating procedures that are binding to the councils of rights of other governmental levels. It is also in charge of the management of the National Childhood and Adolescence Fund, defining

criteria for its use. Between 2003 and 2007, it issued forty guiding resolutions for the policies in the area.

34. IBGE data points out that Brazil has advanced in the establishment of councils of rights. From 2001 to 2006, the number of councils established in Brazil rose by 5.7%, with an especially significant growth in towns with less than 5,000 inhabitants. Most of the new councils were founded in cities of the Northeastern region, while the South and the Center-West registered, respectively, a reduction of 4.9% and 4.4% in the number of established councils (Table 1).

35. Regarding the working conditions of the municipal councils, 91% believe they have proper working conditions in terms of physical structure and location; 51% have computers and 46% have Internet. However, 20% of council members are not familiar with legal texts, such as ECA; 16% had not created a plan to guide their work and only 17% have reported on monitoring and evaluation of the work plan that was developed. Among those who do so, 78% have informed that these plans have been included on the pluriannual municipal plans. It was also verified that the councils lacked information on the social-cultural diversity of children and adolescents.<sup>2</sup>

### **3. Guardianship Councils**

36. ECA also defined the establishment of guardianship councils. They are permanent and autonomous organs at the municipal level, entrusted with overseeing the implementation of rights of children and adolescents. The decisions of the guardianship councils can only be overruled by a court decision upon request of those legally interested in the case. Some standards and basic guidelines of the guardianship councils operation were defined by ECA, such as their composition and their basic attributions. Municipal laws must define other aspects, such as the procedures for the selection of councilors and their payment.

37. According to ECA, there must be, in each city, at least one guardianship council. However, in some cities there is need for more. The five members of each guardianship council are chosen directly by the local community for a three-year mandate. Their attributions include receiving reports of right violations, giving orientation and applying protective measures referring to children, adolescents and their families. The profile of an average guardianship councilor includes high school and a background in in the field of education.<sup>3</sup>

38. Table 2 shows the distribution of guardianship councils by regions and size of Brazilian towns. Between 2002 and 2006, the number of guardianship councils increased by 19.9%. This increase was larger in small towns with up to 20,000 inhabitants. Also relevant were the increases of 32.5% in the Northeastern region and 24.3% in the Northern region. This is largely due to the priorities established by the Federal Government in partnership with UNICEF.

39. Notwithstanding this increase, not all guardianship councils have their own office. They also face difficulties as to the size and maintenance of their office, location, working hours and privacy for services. Data also show that most guardianship councils lack recognition and cooperation from public organs, especially from municipal authorities.<sup>4</sup>

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<sup>2</sup> According to information gathered in the “Good Councils” research, following research by Conanda and SDH together with the University of Sao Paulo in 2005/2006.

<sup>3</sup> According to the “Good Councils” research.

<sup>4</sup> According to the “Good Councils” research.

Moreover, the main challenges faced by the guardianship councils are the insufficient specialized network to care for the family and children that need protective measures.

#### 4. Justice System

40. The organization and the responsibilities of the agents of the Justice System are defined by the ECA, which states that to every child and adolescent it is guaranteed access to the Judiciary, the Prosecution Office and the Public Defender's Office. ECA also established a special justice branch for children and adolescents (Childhood and Youth Justice System), indicated that adolescents must be brought before the police in case of flagrant offence, and regulated the creation of specialized police institutions.

41. It is estimated that 5,500 judges and public attorneys are engaged in the judicial assistance to children and adolescents in 2,643 districts, covering all Brazilian towns. In the bigger districts, there are specialized courts exclusively for childhood and adolescence, as well as courts that address these age groups along with other areas of the law.

42. In 2008, 92 districts in Brazil had specialized courts, of which 18 had more than one court, representing only 3.4% of the total districts of the country. Aside from the usual regional discrepancy, the consequence of this is the high demand on specialized judges. The specialized judge population ratio in Brazil is 438,800 people per specialized judge.<sup>5</sup>

43. Another challenge is how to enable a greater diversity of technicians for the childhood courts, the Prosecution Office and the Public Defender's Office. In most districts, only psychologists and social workers are part of the technical staff, which limits a better understanding of the lives of children, adolescents and their families. One of the causes of such a deficit is the absence of institutional criteria for the implementation of specialized courts and offices.

44. The Prosecution Offices have established operational support centers for childhood and adolescence in 15 states and the Public Defender Offices have specialized branches on the rights of the child and the adolescent in 17 states, instances that, in both cases, are usually centered in metropolitan regions (Table 3).

45. Regarding the public safety system, according to IBGE data, there were 161 police departments specialized in the protection of children and adolescents in the 5.564 towns of Brazil, at least one per State. Most of these police departments deal with adolescents in conflict with the law or children who were victims. Less than half of them deal specifically with crimes against the child and the adolescent.

46. In 2007, the Ministry of Justice launched the National Security and Citizenship Program (Pronasci), which established a set of actions against violence in 11 critical regions. Agreements were implemented with 98 cities and priority was given to preventive activities with children, adolescents and young adults up to 24 years old. The agreements included the expansion of community-based policing in partnership with the states' Public Safety Departments and the establishment of justice administrations and ombudsmen in every federative unit.

#### 5. Parliament

47. The Citizenship and Human Rights Commissions (CCDH) of the various chambers of representatives at Federal, state, and local levels are responsible for the defense of the rights of children and adolescents at the Legislative. Their activities include strictly

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<sup>5</sup> According to the report "Childhood and Youth Justice System on the 18th year of the ECA", released by the Brazilian Association of Judges and Attorneys (ABMP).

lawmaking, the promotion and the monitoring of the implementation of rights. In some Brazilian States, as well as in the National Congress, these commissions have specialized sub-commissions to address issues regarding children and adolescents. There are also several so-called “Parliamentary Fronts for the Rights of Children” at various levels.

48. It is standard procedure for the bills that address subjects involving children and adolescents to be analyzed by CCDHs. Furthermore, the CCDH members can present draft proposals and other legislative initiatives, often as a result of public audiences with civil society. Such commissions also promote seminars, courses, campaigns and publishing activities, as well as undertake visits to support local parliamentary work and networks. In 2005, in the national meeting of the Children Rights Parliamentary Front, federal, states and city council representatives have established the National Legislative Pact for Childhood and Adolescence, which was formalized later with the creation of the National Network for the Defense of the Rights of Children and Adolescents. Commitments were undertaken to create mechanisms of technical-political support among the National Congress, the Legislative Assemblies and the City Councils; to monitor budgetary resources and to review public policies; to follow up on legislative proposals of interest to children and adolescents and to establish alliances between the councils of rights, the guardianship councils and the civil society.

## **6. NGOs and Civil Society**

**In paragraphs 27 and 28, the Committee encouraged strengthening cooperation with NGOs and other sectors of civil society working with and for children and, in particular, to consider involving them more systematically throughout all the stages of the implementation of the Convention.**

49. In order to enhance negotiations and the decision-making processes related to strategic issues for the rights of children and adolescents, SNPDCa supports, along with Conanda, many forums and networks. Such support is considered a long-lasting goal and the budgetary Multi-Annual Plan 2008-2011<sup>6</sup> was modified in order to introduce such actions.

50. Taking that into account, SNPDCa and Conanda proceeded to identify the main collegiate bodies and to give publicity to the process of forum and network mobilization. Each of these bodies includes dozens of entities. SNPDCa and Conanda take part on many of their activities every year. They also influence their agendas, especially on partnerships established through joint working agreements (Frame 6).

51. Most of these forums and networks communicate through e-groups and share their information with other networks through electronic bulletins or their Internet portals. Websites and institutional bulletins of SDH/SNPDCa and Conanda usually publish releases from these groups and vice-versa.

## **7. Information Management**

**The Committee recommended strengthening and centralizing the mechanisms to systematically integrate and analyse disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e., indigenous children, children of African descent, children with disabilities, abused and neglected children, children living in extreme poverty and children in conflict with the law). The Committee also urged the use of these**

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<sup>6</sup> Law No. 11653/2006.

**indicators and data effectively in the formulation of legislation, policies and programmes for effective implementation of the Convention. In this regard, the Committee recommended that the State party sought technical assistance from, inter alia, UNICEF and other appropriate regional mechanisms, including the Inter-American Children's Institute.**

52. In the period of this report, Brazil implemented the following initiatives.

#### 7.1 *National Observatory for the Rights of Children and Adolescents*

53. The National Observatory for the Rights of Children and Adolescents is one of the initiatives of the Social Agenda (2007). At first, it was designed as a website ([www.obscriancaeadolescente.gov.br](http://www.obscriancaeadolescente.gov.br)) to share information on initiatives of the Agenda and on several data produced by the Federal Government. The data may be searched by region, state, and city through especially developed tools. Besides, research and studies developed over the last few years by many Ministries and departments have been made available on the website, as well as sectorial reports related to the rights of children and adolescents.

54. Considering that the main sectorial policies already have their consolidated databases, SNPDCa and Conanda have invested in developing information systems in areas and themes yet little explored, especially on the violation of the rights of children and adolescents.

#### 7.2 *Childhood and Adolescence Information System – Sipia*

55. Sipia is a national information system for the registry and treatment of information on the promotion and defense of the fundamental rights set by ECA. It was established in 1997.

56. The system has two modules. The first one collects information on violations of the rights of children and adolescents from the Guardianship Councils. When properly fed, this module generates statistics that enable the visualization of the situation at various federative levels, making it an important tool for the formulation and evaluation of local public policies. The second module, called Sipia Infoinfra, was designed for analyzing information regarding the application and implementation of socio-educational measures, enabling profiles of the adolescents in conflict with the law and the programs focused on them.

57. After the first decade of implementation of Sipia modules, many problems were identified, including the lack of use. In 2005, only 19% of the guardianship councils had Sipia installed and active. Others either had it installed but inactive (18%) or not even installed (63%). The main reasons for this low level of commitment were the lack of maintenance or inadequacy of equipment (64%), and the lack of training and difficulties to operate on the system (61%).<sup>7</sup>

58. Technical problems also contributed to low usage levels. Both Sipia modules were not updated since their launch and, therefore, were not available in a web version. The sending of data over the Internet was off-line or through floppy disks sent to SDH-SNPDCa. Many guardianship councils reported they faced difficulties feeding data to the system, due to problems with internet connections. Therefore, SNPDCa and Conanda established the revitalization of Sipia as a priority in 2007 and hired a company to develop a web-based Guardianship software and update the categories used in the data according to new legal and institutional regulations.

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<sup>7</sup> According to the “Good Councils” research.

59. A nationwide continuous training program was also designed for the guardianship councils. To ensure the implementation of the new module, called Sipia Sinase, a pact was established with State and city managers of the socio-educational system and with the Justice system. Resources were also defined for properly equipping poorer or more vulnerable regions.

### 7.3 *National Reporting Toll-Free Number – Disque 100*

60. The database from the National Reporting Number has been one of the most utilized sources by managers, councilors and other operators of the System for the Guarantee of Rights of Children and Adolescents. Also, the media frequently publishes data from Disque 100. In order to generate statistics from the service, a data extraction system was developed, aiming at daily monitoring the reports and at producing monthly reports. In addition to the operators in the call center, there is also a specific team that forwards and monitors the reports, and another one that treats and analyzes the data.

61. The service is a direct dial toll-free number, available in all Brazilian cities, which is intended to receive reports and information on violence against children and adolescents. Once a violation is reported, local networks are triggered to care for the victim and to ensure the aggressor's liability. It was created in 1997, under the coordination of the Brazilian Multi-Disciplinary Association for the Protection of Children and Adolescents (Abrapia), and turned over to the Federal Government in 2003. In 2006, there was a change from the 0800 system to the number 100. The service is now offered by SDH through a partnership with Petróleo Brasileiro S/A (Petrobras) and the Center of Reference, Studies and Actions on Children and Adolescents (Cecria).

62. Disque 100 also takes on reports on other human rights violations such as human trafficking and missing children and adolescents. Since 2006, there is a specialized kind of hearing directed to children and adolescents, as well as possible aggressors. The service also provides information on the protection network and the work of guardianship councils. Received reports are sent to the relevant authorities within 24-hour and the authors' identities kept anonymous. During the period under analysis, the service increased enormously: from 4,494 reports received in 2003 to 24,942 reports in 2007, or almost five times more.

### 7.4 *Homicide Rate for Adolescents*

63. Since 2007, with the support of SDH/SNPDCA and UNICEF, the Favelas Observatory, along with the Violence Lab of the State University of Rio de Janeiro (UERJ), has developed the Lethal Violence Reduction Program. Among its initiatives, one can highlight studies to subsidize public policies to combat lethal violence against and by adolescents and the creation of indicators on teenage homicides, with the objective of building information and monitoring systems.

64. To reach this goal, UERJ has developed a new indicator, the Adolescent Homicide Rate (IHA), which uses as a statistic and epidemiologic reference the mortality table model. From 2009 onwards, IHA will permit estimating the number of teenage homicides in cities with more than 100,000 inhabitants.

### 7.5 *National Survey on guardianship councils and rights councils*

65. In 2005/2006, the survey "Good Councils" mapped out the rights councils and guardianship councils of the country, their working conditions and needs. 25 state councils of children and adolescents rights took part in the survey as well as 2,474 municipal rights councils and 3,476 guardianship councils (respectively, 96%, 49% and 71% of the total amount). This national survey provided basic information for projects intended to

strengthen councils and policies aimed at children and adolescents, such as Conanda's resolutions on parameters for the operation of guardianship councils and on the management of Funds by the rights' councils.

66. The strategy of continuous training was also reaffirmed by SDH/SNPDCA and Conanda financing projects, as 65% of the councilors were taking office for the first time, 69% only dedicated 5 hours to council activities monthly and a third mentioned having either no experience in the field of children and adolescents, or less than one year's experience. Besides, only 20% of the councils had a documented diagnosis of the situation of children and adolescents in their area.

#### 7.6 *Mapping out the sexual exploitation of children and adolescents*

67. The "Guide to Locate Vulnerable Spots for Children/Adolescent Sexual Exploitation on Brazilian Roads" was first published in 2006 and is now in its fourth edition. It provides geo-referenced knowledge of the main sexual exploitation spots along sixty federal roads of the country. The survey is repeated annually by ILO and the Federal government. It is an important tool to fight sexual exploitation of children and adolescents, easing the work of policemen inspecting and monitoring the roads, and it is used for the implementation of public policies at local level.

68. Local participative diagnosis also took place in cities included in the Inter-Sectorial Network Against Sexual Violence, created by University of Brasilia, together with USAID/Partners, using related data from many national surveys. From 2003 to 2007, these diagnostic surveys sponsored by SDH/SNPDCA and Conanda were undertaken in 59 capitals and metropolitan cities of 11 states, as part of the Child and Adolescent Social Agenda.

#### 7.7 *Surveys on the Socio-Educational System and on adolescents in conflict with the law*

69. Conanda approved, in 2007, the realization of the II National Survey on Admittance Units. The first edition of this survey took place in 2002. Its purpose is to support the implementation of Sinase and it aims to overcome the lack of data on socio-educational measures under programs which include deprivation of liberty, so that public managers of socio-educational policies, rights councils, guardianship councils and civil society in general can be supplied with an up-to-date overview of the socio-educational system on many states. It analyses the profile of the adolescents under care, the situation on the holding units and the institutional articulations that compose the policy for caring for adolescents in conflict with the law.

70. The United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders in partnership with SNPDCA/SDH conducted the first National Survey on the Open Social-Educational Measures in 2007. It arose out of the need to subsidize the strategic planning and budget for Sinase, especially as regards financing the municipal features of the implementation of open socio-educational programs. The information was used by the Federal Government to plan the co-financing of programs through the Unified Welfare System from 2008 onwards, as the survey showed that most of the programs were implemented through this sectorial network. On the other hand, data confirmed concerns about the low level of implementation of the program. The regular monitoring of the enforcement of custodial sentences applied to adolescents in conflict with the law is carried out only by members of the Judiciary in most of Brazilian cities.

71. SNPDCA has also performed, since 2006, the National Survey on Measures of Deprivation of Liberty. It surveys the rate of adolescent admittance in the socio-educational system and gives up-to-date quantitative information on the implementation of provisional admittance and on the socio-educational measures of deprivation of freedom and semi-

freedom in Brazil. The analysis of such data is a regular subject at meetings of local and State Managers, which also permits the Inter-Sectorial Commission of Sinase to plan initiatives.

#### 7.8 *Missing Children and Adolescents Records*

72. Since 2002, Brazil developed the National Network for the Identification and Localization of Missing Children and Adolescents (ReDESAP). The Network provides greater visibility to the issue and maintains a centralized record of the cases. It also helps to coordinate specialized public services in the search for missing persons.

73. The recording of cases is performed by the executive agencies of ReDESAP, formed by 45 entities throughout the national territory, most of them police departments for the protection of children and adolescents and family associations. In 2007, from 1.247 cases of missing children and adolescent registered, 725 situations were solved.

74. The Network spreads information through its own website, through nation-wide campaigns, and through partnerships with the Caixa Econômica Federal bank, the Ministry of Transports and the Brazilian Postal Service, which included information and photos of missing persons in their branches, present throughout the country.

### 8. **Knowledge Management**

**The Committee recommended that, in the light of article 42 of the Convention, Brazil:**

**(a) Continue to strengthen its programme for the dissemination of the information on the Convention and its implementation among children and parents, civil society and all sectors and levels of Government;**

**(b) Provide adequate and systematic training and/or sensitization on children's rights for all persons working with and for children, such as parliamentarians, judges, lawyers, law enforcement and health personnel, teachers, school administrators, social workers and especially children themselves;**

**(c) Implement the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, related to provisions of training.**

75. From 2003 to 2007, the Federal Government has undertaken many initiatives to train the main operators of the System for the Guarantee of Rights of Children and Adolescents. The strategy, developed by SDH/SNPDCA and Conanda, to prioritize investments on projects of continuous training and building decentralized training centers, preferably associated to Universities should be highlighted. From this perspective, the following new initiatives were implemented:

#### 8.1 *Training for rights councilors and guardianship councilors*

76. SDH/SNPDCA and Conanda have incorporated the experience generated in 1998 in the Federal University of Mato Grosso do Sul, with the concept of "council schools" to train rights councils and guardianship councils, with a view to update them on legislation and childhood and adolescent-related issues, as well as to help plan their actions, especially in monitoring and evaluation of public policies in this field.

#### 8.2 *Training operators of the socio-educational system*

77. The continuous training strategy was also developed for the Sinase teams. In this sense, the experience of partnership with some training institutions in different states in



2006 and 2007 showed the need of greater conceptual coherence, to be reached by the study of a curriculum developed by an expert committee.

### 8.3 *Training operators of the legal system*

78. In 2007, SDH/SNPDCA, Conanda and ABMP started the program “Updating The Rights of the Child and the Adolescent: strengthening the defense and social control of the rights of adolescents in conflict with the law”. This project, developed from regional seminars, has the purpose of updating and training judges, prosecutors and public defenders that operate the Childhood and Youth Courts, with a twofold focus: socio-educational and protective measures. One of the products of the national seminars is the setup of operational workflows to apply and implement such measures.

79. The proposal intends to overcome the lack of specialized knowledge about the configuration of the Justice System, as prescribed by ECA and international rules. The theoretical and doctrinal production is also scarce, and the discussion on jurisprudence on the field of childhood and adolescence rights is incipient in Brazil. Most Law courses, as well as Judge Schools, Prosecution Offices and Advocacy Schools do not have a mandatory subject on the rights of children and adolescents in their curricula.

### 8.4 *Policemen Training*

80. During 2004-2007, many training activities with a focus on children and adolescents were developed for civil, military and road policemen, as well as firemen, municipal and metropolitan guards. Since 2004, in all the national territory, over 22.400 public security professionals were trained. One of the innovations was the training of community-based policemen. Community-based Policing strategy uses a wide variety of methods to work in partnership with the community, generally through the Community Security Councils.

### 8.5 *Education workers training*

81. The Peace in Schools National program, of multi-sector nature, developed the concept that each school could promote a culture of peace, with the support of the community, the students and the teachers. In order to do so, it provided training for teachers based in a cross-cutting curriculum for Ethics and Citizenship, as well as training for policemen who work inside schools, and studies and researches in the field of school violence. Approximately 5.500 teachers were trained from 2003 to 2005, in partnership with the state education departments. Training for three thousand policemen who act in school security was also provided.

## 9. **Monitoring the Rights of the Child and the Adolescent**

**The Committee encouraged Brazil to establish an independent and effective mechanism in accordance with the Paris Principles (General Assembly resolution 48/134). This institution should be provided with adequate human and financial resources and should be easily accessible to children, dealing with complaints from children in a child sensitive and expeditious manner and provide remedies for violations of their rights under the Convention. The Committee recommended that Brazil seek technical advice from the Office of the United Nations High Commissioner for Human Rights and UNICEF.**

82. Though Brazil does not have a specific independent structure to monitor the implementation of the rights of children and adolescents, many mechanisms were created or improved before and during the period of this Report, in order to allow the timely registration and follow-up of reports on violence against children and adolescents.

83. The guardianship councils are one of such mechanisms, which by definition can be deemed as “community ombudsmen”, elected by the local communities, for a three-year mandate and with one reelection allowed. The guardianship councils are public organs, independent from the Executive power and non-jurisdictional. They are easily accessible by all of those who need their guidance or their assistance, including children and adolescents. As mentioned before, guardianship councils are established in 93% of Brazilian cities.

84. In addition, there are also the Ombudsman Office of the Secretariat of Human Rights, the State Police Departments and the Human Rights commissions of the state chambers of representatives as monitoring institutions. Disque 100, as described above, has been the main source for reports on the violation of the rights of children and adolescents. Moreover, from 2006 onwards, the Ministry of Health has established, in 27 federation units, the Accidents and Violence Vigilance module – VIVA.

85. When it comes to evaluating the programs we must mention the rights councils, which perform a role, defined by ECA, of social control of the public policies for childhood and adolescence. The civil society representation in this collegiate is defined by the non-governmental entities themselves and their operation is de-centralized, with instances in the States, Federal District and the cities. It has been established in 83% of the Brazilian cities. In a supplementary way, the Monitoring Network Friend of the Child has been the main interlocutor with the civil society in monitoring the initiatives under the Program President Friend of the Child and the Adolescent.

## 10. International Cooperation

**In paragraphs 20, 24, 37, 51, 59 and 70, the Committee recommended relying on international cooperation and technical assistance in the implementation of the rights of the child, especially in monitoring activities; data systematization; respect for the views of the child; children with disabilities; education; justice system.**

86. During the period of this report, many cooperation agreements with international partners were implemented, including:

(a) In 2004, the Ministry of Social Development and Fight Against Hunger, the SDH, and the United States Agency for International Development (Usaid) signed a Memorandum of Understanding in order to share regulatory guidelines for technical assistance rendered by Usaid for the implementation of programs against sexual exploitation and trafficking of children and adolescents for sexual purposes;

(b) The project “Safety in schools: a human rights issue”, implemented through the United Nations Population Fund (UNFPA), had the purpose of contributing to the reduction of many forms of violence among children, adolescents and young adults. It provides training in many institutions for the development of projects and activities for the prevention of violence and the strengthening of the student councils, with special emphasis on the schools at admittance units of the social-educational system;

(c) Also developed together with UNFPA, in 2007, the project “Human Rights: a public policy against the vulnerability of children and adolescents who were victims of abuse and sexual exploitation” intended to reduce violence against children and adolescents by increasing, strengthening and articulating public policies against sexual violence;

(d) The United Nations Development Fund for Women (Unifem) sponsored the “Promotion of the rights of young women vulnerable to sexual abuse and commercial sexual exploitation” project, which aims at promoting these rights and sharing successful experiences in this area;

(e) Many other projects were developed in partnerships with international organizations such as ILO, Pan-American Health Organization, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and UNICEF in order to promote the rights of children and adolescents;

(f) Bilateral cooperation agreements were celebrated with Uruguay and Colombia to strengthen the policies intended to guarantee the rights of children and adolescents;

(g) Brazil was also an active participant of the development of a digital library coordinated by the Inter-American Institute of the Child, an agency of the Organization of American States, compiling documents and national publications to be shared through an electronic database;

(h) In Mercosur, a regular Meeting of High Authorities for Human Rights (RAADH) was established in 2005, with the participation of specialized public authorities, Human Rights System global and regional organizations and civil society. From this process, the Nin@sur initiative was created, putting together, twice a year, national authorities in charge of the rights of children and adolescents, with the objective of achieving legal articulation in order to enforce the Convention. Common priorities are established every two years, including in the field of sexual exploitation in national borders, child and teenage pornography on the Internet and the juvenile justice system;

(i) Brazil participated actively, along with 14 other countries, of the negotiations of the United Nations Guidelines for the Alternative Care of Children. Brazil had a leading role in the adoption of such guidelines by the General Assembly, and advocated for a human rights perspective on the issue, which favored the right of children to be with their original families, their communities or, depending on the case, to be raised in an alternative family environment.

## **C. Budgetary allocations, federal government expenditure on the enforcement of the rights of the child and the adolescent**

**The Committee recommended that Brazil paid particular attention to the full implementation of article 4 of the Convention by prioritizing and, given recent positive economic developments, by increasing budgetary allocations to ensure at all levels the implementation of the rights of children, in particular those belonging to marginalized and economically disadvantaged groups, including children of African descent and indigenous children “to the maximum extent of ... available resources and, where needed, within the framework of international cooperation.”**

87. It must be noted that the 27 states, the Federal District and also the 5,564 cities have their own budgets for these expenses. Therefore, different programs, actions, and targeted populations are defined for the funds allocation in the different government spheres. Besides, not all federative units have decentralized and transparent mechanisms, which is an obstacle for the separate analysis as per the recommendation of the Committee.

### **1. Budgetary allocations to the Child and Adolescent**

88. In order to evaluate the federal social expenditure for the 2003-2007, 17 different social programs were assessed.<sup>8</sup> The average growth was of 10.8%. This was larger in 2004

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<sup>8</sup> The functions and programs were selected from *Siga Brasil*, a Senate database, which uses data from the Federal Government; Integrated Information System of Financial Administration (Siafi),

and 2006, with 15.6% and 12% respectively. Taking the year 2003 as a baseline, the average social expenditure increased 50% until 2007 in a non-linear way: Social Security expenditure increased 38%; Welfare 131%; Labor 112%; and Health 426% (Table 4).

89. The budget resources destined to children and adolescents<sup>9</sup> are described on Table 5. The investments were lower in 2003 than in 2004, while the Child Budget rose 1,704.2%, partially due to the implementation of programs like the Conditional Cash Transfer and Brasil Escolarizado. In the period between 2004 and 2007, the average annual budget increase was 11.6%, totaling 39%.

90. Accordingly, when the specific budget for children and adolescents are compared with the GDP, an increase on the expenditure rate from 0.5% in 2004 to 0.6% in 2007 is observed. It is also noted that the budget for children and adolescents policies grew faster than the general budget for social policies in the period, especially in 2007, when the Budget for the Child and Adolescent increased 15% and social expenditures less than 10%. The comparison of the evolution of the social expenditure and the Child Budget in the four years of this report is demonstrated in Graph 1.

## 2. Childhood and Adolescence Funds

91. Childhood and Adolescence Funds have been established, supported by a series of income streams, including a funding source based on tax rebates. According to the law, donations made to the national, state, district and city funds may be deducted from taxes due by companies and individuals. Individuals may deduct up to 6% of the income tax due and companies may deduct up to 1%.<sup>10</sup>

92. In the “Good Councils” survey, 8% of the polled City Councils have indicated that the Municipal Funds have not yet been created, while 21% were created, but have not yet been regulated. From 1,712 regular funds, only 936 (39%) informed they received any donation. The municipal councils believe this is due to the lack of information on the conditions for the donations and their tax-exemptions, so there are funding resources yet to be explored.

93. In order to increase their financial uptake, the rights councils suggested a big advertising campaign to raise awareness of the Funds within the administration and the public in general, as well as the development of training programs for financial management and effective use of the resources. In the federal sphere, the National Fund has registered an evolution as regards the amount collected, authorized and disbursed as demonstrated on Table 6 annexed. There has been a gradual improvement, both in the authorized amount as in the percentage disbursed, with a significant increase in the year of 2007.

## II. Definition of the child

94. The definition of childhood in Brazil has been modified during this period, due to the introduction of the new Civil Code (Law No. 10406/02) in 2003. One of the most significant changes was the decrease of the age for civil majority from 21 to 18 years old.

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Integrated Budgetary Data System (Sidor) and Support System for Budgetary Laws (Selor).

<sup>9</sup> The Child and Adolescent Budget Amounts come from the thematic budget of Siga Brasil, from Senate, which uses data from Siafi, Sidor and Selor. To the Siga Brasil selection were added the amounts from the National Childhood and Adolescence Fund.

<sup>10</sup> Law No. 9532/97 and Provisional Rule 2189-49/01.

95. According to the previous Civil Code, persons between 16 and 21 years of age held limited legal capacity.<sup>11</sup> After the enactment of the new Civil Code, the age of majority was set at 18. Children up to 16 years old lack legal capacity and their interests should be taken care by an adult until they come to majority. Voting registration is optional from the age of 16 and mandatory from 18 onwards. Adults over 18 years are allowed to drive automotive vehicles. The minimum age for military conscription is 17.

96. From the point of view of the previous Civil Code, youth between 18 and 21 were criminally accountable, but still lacked legal capacity. Now adults over 18 are responsible for their acts from both civil and criminal perspectives. The cutting-off age for criminal responsibility has been, nonetheless, an issue of intense parliamentary, legal and social discussions. On one hand, there have been many legislative proposals for reducing the minimum age for criminal responsibility; on the other hand, Brazil is working to fully implement the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), which is applicable also to the 18-21 age bracket. Accordingly, ECA defines this period as exceptional for the application of socio-educational measures. The jurisprudence of the Superior Court of Justice is still controversial as to whether civil majority should be taken as a starting point for criminal prosecution.

### III. General principles

#### A. Non-discrimination

**The Committee noted with extreme concern the dramatic inequalities based on race, social class, gender and geographic location which significantly hamper progress towards the full realization of the children's rights enshrined in the Convention. It also urged Brazil to take adequate measures to ensure the implementation of existing laws and policies guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups, including all necessary special measures to address the rather persistent inequalities that exist against some ethnic groups such as Brazilians of African descent. The Committee further recommended that Brazil continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices.**

**In addition, the Committee requested that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001 and taking into account of General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

97. In 2003, the Special Secretariat for the Promotion of Racial Equality (Seppir) was created. It has had an official representative in Conanda since 2004. Seppir has ministerial status and is directly subordinated to the Presidency of the Republic. It was created to articulate governmental policies against ethnic and racial inequities. In a similar manner, the Special Secretariat for Women Policies was created in order to implement public policies against gender inequality.

<sup>11</sup> Articles 5, I, and 6, I, of Law No. 3071/16.

98. Some measures adopted to implement the Declaration and Program of Action of the III World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (DDPA) are described below. When basic social policies are approached throughout this report, additional information will be provided on the child and adolescent situation of the so-called minority groups.

## **1. Ethnic-racial diversity**

99. In Brazil, among the richest 10% of the population, only 18% are people of African descent (mixed-race or black); in the poorest 10%, 71% are black or mixed-race.<sup>12</sup> Black people are three times more affected by food insecurity than white people.

100. Considering this reality, racial equality is deemed strategic and is the object of many initiatives. In education, the main goal of the Brazilian government in the period concerned was to establish initiatives for the promotion of racial equality at the education system, especially by ensuring access and permanence of black children and adolescents at school. There were also incentives for the admission and support of black youth in college. As a result, the number of black or mixed-race students entering university increased from 22% of the total number of students in 2001 to 30% in 2005. Some legal progress has also been made: the Basic Education Development Fund (Fundeb), enacted in 2006, provided funding to promote racial equality; and Law 10,639/03 established as mandatory the subjects of African history and Afro-Brazilian culture at schools.

101. The 12th National Health Conference deliberated for the creation of the Black Population National Health Policy. Among other actions, the information on race/color was included on the Child Health Booklet of the National Pact for the reduction of Mother and Neonatal Mortality; the National Program to Fight Institutional Racism in the Unified Health System (SUS) was created and the Ministry of Health's website on the Internet has a specific area for Black Population Health. In 2005 the educational campaign "Aids and Racism, Brazil must live without prejudice" was launched.

102. The perspective of racial equality has also been included on the National Youth Policy. The structure of the National Youth Council (Conjув) included many black movement sections: hip-hop, quilombolas, Candomblé communities, indigenous and gypsies.

103. The Zanauandê project is one of the main activities focused on the quilombola child and adolescent. Started in 2004, it involves the mobilization and the articulation of local leaderships for the creation of diagnostics that point out their main demands on health, healthy food, sexual exploitation and protection against violence, among others. As a part of the Semi-Arid Pact, in August 2006, the Quilombola Nutritional Call took place, in partnership with UNICEF, with the purpose of diagnosing the food security and nutritional level of the communities.

104. 104. In November 2004 and August 2007, Conanda organized Seminars on the "Statute of the Child and Adolescent and the Indigenous Juvenile Populations". On both occasions, debates included indigenous adolescents with the aim of creating guidelines for the social policies.

## **2. Diversity, Gender, and Sexual Orientation**

105. In average, Brazilian girls stay for longer periods in schools than boys, but later receive lower wages even when employed in similar positions. According to IBGE data,

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<sup>12</sup> According to data from the Applied Research Institute (Ipea) and IBGE in 2006.

girls became the majority in schools, especially in the higher levels. In 2005, boys constituted 52% of the enrollments in the 1st to the 4th grades, but this figure is reversed in upper levels. From the 5th to the 8th grades, there were 143,000 more girls than boys enrolled and, in high school, the difference is even bigger, reaching 725,000 more female students. One of the reasons for this imbalance is the situation of poverty faced by families, which compels boys to work rather than study. In spite of the low achievement of boys at school, they still have an economic advantage when they get to the labor market. Besides, women work longer hours and have narrower opportunities and life options than men.

106. The fact that girls study more does not assure them gender equality. The school environment still spreads stereotypes that reproduce a submissive position for women, maintaining prejudice and reinforcing inequality. Taking these aspects into account, the national policy for women has encouraged the production of educational material to be used in schools and community spaces. Together with the Ministry of Education, the Secretariat of Policies for Women and the Secretariat of Policies for the Promotion of Racial Equality have developed the project “Gender and Diversity in schools”, aimed at training professionals of the public educational system who work on the 5th to the 8th grades on issues related to gender, sexuality and ethnic-racial equality. Priority was also given to the creation of legal guidelines to promote the use of women’s images in order to fight prejudices.

107. As to the sexual diversity, the Multi-Annual Plan [PPA] for 2004-2007 defined actions to fight violence against homosexuals. SDH launched the program “Brazil without Homophobia”, in order to ensure equal rights and fight homophobic discrimination. The Federal Government also supports legislative initiatives to approve new legislation at the Brazilian Congress for the prevention of homophobia in schools and to train service care professionals, especially those from support houses and shelters for children, adolescent and young adults.

## **B. Best interests of the child**

**The Committee recommended that the principle of “best interests of the child”, established in article 3 of the Convention, be duly reflected in all legislative acts, policies and programmes as well as in judicial and administrative decisions affecting children. The Committee also recommended that training for professionals as well as awareness-raising among the public at large on the implementation of this principle should be reinforced.**

108. The best interest of the child is set out in article 277 of the Brazilian Constitution as the principle of absolute priority, defining that it is the duty of the family, the society and the State to ensure, with absolute priority, the right to life, health, nutrition, education, sports, leisure, professional training, culture, dignity, respect, freedom, family and community living for the child and the adolescent.

109. ECA defines that “it is the duty of the family, community, society in general and the public authority to ensure, with absolute priority, effective implementation of the rights to life, health, nutrition, education, sports, leisure, professional training, culture, dignity, respect, freedom and family and community living. The guaranty of priority encompasses: (a) priority in receiving protection and aid in any circumstances; (b) priority in receiving public services and those of public relevance; (c) preference in the formulation and execution of public social policies; (d) privileged allocation of public resources in areas related to the protection of infancy and youth”.

110. The absolute priority of the child was recognized in Brazilian jurisprudence, which have disposed that the public administration is prohibited from claiming lack of funds to

implement the rights of children and adolescents. As examples we can mention the Federal District Court – Civil Appeal 62/93, decision 3,835, and the Rio Grande do Sul Court – Civil Appeal 596017897, 7th Panel.

111. The public-interest civil action<sup>13</sup> is the mechanism to enforce the principle of absolute priority of the interests of the child protected by the ECA and the Constitution. The legitimate parties to propose civil lawsuits for offenses against the rights of the child and the adolescent include the Prosecutors' Office, the Union, the States, the municipalities, the Federal District and some other legally able associations. The object of these civil actions may address the irregular or lack of offer of education, health, juvenile professional training and other services related to children and adolescents.<sup>14</sup>

112. The principle of absolute priority of children and adolescents also guides the implementation and the application of the law, as well as the drafting of regulations. Resolution No. 113, of April 19th 2006, issued by Conanda, sets out the parameters for the institutionalization and strengthening of the System for the Guarantee of Rights of Children and Adolescents, highlighting that:

- Paragraph 2: This system will foster the integration of interest of the child and the adolescent in the processes of creation and implementation of legislative acts, policies, programs and public actions, as well as the legal and administrative decisions which may affect children and adolescents;
- Paragraph 3: This system will promote studies and research, training processes for human resources directed to its own operators, as well as the general public mobilization on the implementation of the prevalence of the principle of the best interest of the child and adolescent.

### C. The right to life, survival and development

**The Committee urged Brazil to take, as a matter of the highest priority, all necessary measures to prevent the killing of children, to fully investigate each of those serious violations of children's rights, to bring the perpetrators to justice and to provide the family of the victims with adequate support and compensation.**

113. A survey from UNICEF based on UNDP data, indicated that, in 2005, an average of 16 children and adolescents were murdered every day in Brazil. The number of blacks is double the number of whites. The result of the "Violence Map" survey, released in 2006, shows an increase of violent deaths in Brazil. The study shows that 18,583 Brazilians among 15 and 24 years died in homicides. Deaths by external causes correspond to 72.1% of the total deaths occurred in the age bracket between 15 and 24 years. Male adolescents and young adults living in the surroundings of big cities, afro-descendants and those with no schooling are the main victims of lethal violence (Table 7). According to a study made public in 2006 by the Ministry of Health, 8045 homicides of people between 10 and 19 years of age occurred in 2004, which represents 34.2% of the deaths of this age bracket. Most of the victims were males (91.8%). Over 70% of the youth killed by homicides were 17 to 19 years old. Afrodescendants represented 57.7% of the deaths. The Southeastern and

<sup>13</sup> Public-interest civil action is a procedural instrument designed for the protection of the diffuse interests of the society and, exceptionally, for the protection of collective interests or homogeneous individual ones. It cannot support individual rights (though ECA defines exceptions). It was designed to protect environmental and consumer rights, as well as other rights of aesthetical, historical, touristic and landscape value, through the Prosecution Office or other relevant actors.

<sup>14</sup> Articles 201, V, 208, and 210, both from ECA.



Northeastern regions showed the largest numbers of violent deaths, respectively 50.9% and 23.9% (Graph 2).

114. Given this scenario, some measures have been taken, starting with the creation of the Program for the Protection of Threatened Children and Adolescents (PPCAAM) in 2003 by the Federal Government. It was implemented in the Southeastern region until 2006 and expanded to Pernambuco and Pará, states with high rates of homicides among adolescents in 2007.

115. The purpose of PPCAAM is to protect the life of children and adolescents threatened with death, as well as to support studies and the drafting of public policies to prevent the involvement of this population group in situations of lethal violence. The Program is a pioneer initiative in Brazil, and therefore had to develop its own methodologies and adjustment of the service network in the cities and states, in attention to the Convention and ECA principles, especially when it comes to ensuring the right to a family and to community living.

116. The protection is put into force by taking the threatened child or adolescent away from the place of risk, preferably with his/her family, and integrating him/her into another community. The purpose is to provide full protection, along with the enjoyment of all human rights, including the right to health, to education, to sports, to culture, to professional training, to welfare policies and access to jobs.

117. Between 2003 and 2007, 1,814 people were protected, among which 737 were children and adolescents and 1,077 other family members. In the year 2007 alone, 1,908 people were admitted into the program. The profile of those protected by PPCAAM is provided on Frame 7. Guardianship councils were responsible for 43% of the admittances; the Judiciary for 31%, and the Prosecution Office for 26%. 62% of the protected beneficiaries were threatened in capitals, 24% in metropolitan regions, and 11% in smaller towns.

118. The most common cause of threats were involvement with drug trafficking and disputes among rival groups. 44% of the cases were solved by the family relocation, 32% of the beneficiaries were taken to a shelter or institution, another 22% were admitted to a drug dependency treatment institution, and 2% were replaced into a foster family. The length of stay in the program was less than six months in 52% of the cases; 33% from six months to one year; 10% from one year to one and a half year; 4% from one and a half year to two years; and 1% over two years. Furthermore, 33% left the program due to the consolidation of their social insertion; 21% by the end of the threat; 18% due to evasion; 16% did not comply with the terms or regulations; and 11% by request of the included party.

119. In 2008, through the Favelas Observatory agreement, the program for the Reduction of Lethal Violence was launched with the purpose of raising awareness among the civil society and public managers for the issue of death rates among children and adolescents, articulating local networks, spreading successful experiences, including the theme in the public agenda, and also developing an indicator to monitor the indexes of teenage homicides.

## **D. Respect for the views of the child**

**The Committee recommended that due consideration be given to children's views, in accordance with article 12 of the Convention, within the family, at schools, in courts, and in all relevant administrative and other informal processes concerning them. This should be undertaken through, inter alia, the adoption of appropriate legislation and policies, the training of professional, awareness-raising of the public at large and the establishment of specific creative and informal activities in and outside schools. The Committee also recommended that Brazil sought technical cooperation from UNICEF.**

120. Since 1995, Conferences on the rights of the child and the adolescent were organized every two years in the municipal, state, district and national spheres. From 2003 to 2007, three national conferences took place. The V Conference, in 2003, was opened by the President of the Republic and was attended by nine Ministers. The meeting had as a theme "Pact for peace – an attainable construction", and for the first time adolescents were delegates in educational conferences, not only as observers. This participation was a request from the adolescents, discussed in the IV Conference which happened in 2001. The VI Conference, in 2005, had as a theme "Participation, Social Control and the Guarantee of Rights – For a Policy for Children and Adolescents" and also had the presence of adolescence as delegates.

121. In 2007, the theme of the VII Conference was "Making Human Rights Concrete for Children and Adolescents – Mandatory Investment". The VII Conference was an advance, for it had a deliberative feature and the number of teen delegates increased by 50% from the previous Conference, reaching a total of 300 delegates, that is, 1/5 of the total participants. Furthermore, the adolescents had the same rights as the adults, including being panelists and commentators of the debate panels of the National Conference.

122. The participative experiences of children and adolescents were reinforced, from policy monitoring – such as the initiative of the Budget and Active Participation Adolescent Network (OPA) of Fortaleza/Ceará, through the Child and Adolescent Defense Center, which monitors the city budget – to actions such as the Sou de Atitude Network, formed by adolescents and young adults in 2003, with the support of the Cipó NGO, whose proposal is to monitor policies for children and adolescents. Another good example is the Plenarinho, an initiative from the Brazilian Parliament which annually puts together bills from children and adolescents from the entire country in a contest, whose winner is formally presented as a bill in the National Congress.

123. The National "Peace in Schools" Program, implemented between 2003-2005, has, as one of its axes, the support for the organization of adolescents and young adults who are active in Student Councils. About 100 institutions were created. The Restorative Justice approach has also been applied to adolescents in Brazil. Its premise is to modify the power relations in the case of legal process, by giving adolescents participation on the decisions referring to themselves. This practice, already adopted in other parts of the world, has been supported and financed in Brazil. Three pilot projects have been implemented, two of them with adolescents.<sup>15</sup>

124. The respect for the opinion of adolescents was also expressed at Sinase. One of its guidelines defines their right for participation in the construction, the monitoring and the

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<sup>15</sup> The third pilot Project, Restorative Justice in the Criminal Special Court – Núcleo Bandeirante, has the purpose of mediating conflicts in the special court cases in the Federal District, of which the adolescents are not part of the target audience.

evaluation of the social-educational measures. This right is now under regulation through Bill 1627/07, which is concerned with the social-educational system. Article 6 states that, aside from the rights and guaranties defined by the Constitution, ECA and the treaties and international conventions ratified by Brazil, adolescents submitted to a social-educational measures have the right to being respected in his own personality, intimacy, freedom of thought and religion and all the rights that were not expressly restricted in the sentence; to make requests in writing or verbally, if illiterate, directly to an authority or public organ, and receiving a response within fifteen days; to receive it in writing and to be informed of the regulations of the organization and operation of the service program, including disciplinary measures; and to receive, whenever requested, information on the evolution of his individual plan, participating in its evaluation and re-evaluation.

## IV. Civil rights and freedoms

### A. Name and nationality

125. The previous report described the legal requirements as regards the nationality of Brazilians, native-born and naturalized. Though the right to a name is recognized as a universal right, under-registration of births prevents it to be fully enforced.

126. Children of refugees also face the nationality issue. The National Committee for Refugees (Conare) registered 261 refugee children from 1998 to December 2007. From the moment a request for permanence in Brazil is made, these children enjoy the same right of access to basic social policies as Brazilian children, even though they do not have permission for definitive residence in the country.

### B. Preservation of identity

**The Committee recommended improving Brazilian system of birth registration, so as to fully cover Brazilian territory, taking into account regional disparities, and adopting measures that facilitate birth registration, particularly aimed at the poorest and most marginalized children.**

127. Even though the first birth certificate is free of charge for all Brazilians, under-registration endures (Graph 3), because of the low enforcement of the mandatory registry law, along with the lack of information regarding the fact that the document is free, and because some cities do not have a child protection network. There are also difficulties in accessing notaries and many children are not born in hospitals, which makes the control more difficult. There are also cases in which the registry is not done because fatherhood is not recognized.

128. In the case of indigenous people, many families do not register their children at civil notaries, registering them only at Funai (National Foundation for Indigenous People). Even though the document is well accepted in most agencies, whenever the family needs to obtain any kind of benefit or other documentation, notaries are required to issue a late register.

129. Since 2002, financial incentives have been offered to maternity wards that have registry units in their premises and to maternity wards under agreement with the Unified Health System (SUS), which permits the birth registration before the hospital discharge. In 2007, the Federal Government launched the Social Plan for Civil Birth Registration and Basic Documentation, with the purpose of eradicating birth under-registration and of implementing a structure that ensures the right to birth registration. The plan has three axes:

national mobilization; extension of the civil registry service network; and establishing structuring conditions to improve the registry system.

130. Arising from this latter axis, – the National Civil Registry Information System – SIRC was implemented, integrating the information from notaries and maternity wards. An agreement between the Federal Government and the States was also implemented to eliminate under-registration of births and to extend access to basic documentation. It is also important to point out the support from partners such as the civil society, private sector and organisms such as UNICEF.

### **C. Freedom of expression and the right to seek, receive and impart information**

131. The freedom of speech is a right enshrined in the Brazilian Constitution. The free and unhindered manifestation of thought in any form is also a written guaranty, which determines the freedom of speech for intellectual, artistic, scientific and communicative purposes. ECA defines the guaranty of freedom of speech for children and adolescents. This right encompasses, among others, the following aspects: opinion, expression and participation in the political life, according to the law.

### **D. Political rights**

132. Brazilian legislation grants adolescents from the age of 16 to 18 with the right to vote. Voting is mandatory for everyone from 18 to 70. According to data from the Electoral Justice, in October 1992, the number of 17-year-old voters was 1,822,639 (2.02%) and of 16-year old, 1,398,841 (1.55%), adding up to 3.57% of all voters. In June 2007, these figures had dropped to 1,584,199 (1.26%) and 507,939 (0.4%), respectively, a total of 1.66% of all voters.

### **E. Freedom of thought, conscience and religion**

133. The freedom of speech and thought is enshrined in the Brazilian Constitution, which defines in its article 5, that the manifestation of thought is free. In fact, the Federal Constitution guarantees all fundamental freedoms, including freedom of manifestation, conscience, belief, religious practice, movement, peaceful assembly and association and of the freedom of expression for intellectual, artistic, scientific and communicative purposes, and not to be subject to censorship or previous licensing. Article 220 also assures the manifestation of thought, determining that the manifestation of thought, creation, expression and information, in any form, process or means, shall not be restricted in any way.

134. In Article 16, ECA specifies that the right of the child and adolescent to freedom encompasses the following aspects: the right to movement and to remain in public places and communal spaces; opinion and expression; belief and religious practice; play, sports practice and entertainment; participation in family and community life, and seeking refuge, aid and guidance. And, even when deprived of freedom, the adolescent has the right of receiving religious counselling according to his own belief, whenever he so wishes (ECA article 124).

## **F. Freedom of peaceful assembly and association**

135. One of the most important guarantees of the Convention is the right of children and adolescents to participate in all issues that concern them, as well as the right to organize themselves for peaceful and legal purposes. In Brazil, these rights are expressed in article 16 of ECA, which ensures the right to participate in the life of the family and the community, as well as in the political life. Strategies that lead to the participation of young adults in the community are considered to have a high educational value and represent a useful and effective mechanism for the prevention of violence, drug abuse and crime.

136. The organization of the I National Youth Conference was a significant cornerstone. Up to December 2007, municipal conferences took place in 841 Brazilian towns. At state conferences in 2008 different aspects were discussed, including education, health, sexuality, labor and social participation, with the purpose of creating proposals on planning, executing and controlling youth policies in Brazil.

## **G. Protection of privacy and protection of image**

137. Constitution guarantees the inviolability of the intimacy, privacy, honor and image of individuals, as well as the secrecy of correspondence, telephone and telegraphic communications. The law states that the violation of this guarantee may lead to a compensation for moral or material damage. ECA clarifies that the guarantee consists in the inviolability of physical, psychological and moral welfare of children and adolescents, including the preservation of their image, identity, autonomy, values, ideas and beliefs, and personal spaces and objects.

138. The disclosure of judicial, police and administrative acts that pertain to children and adolescents who are charged with an infraction is forbidden. Any news about the fact must not identify the child or adolescent, and pictures, references to name, nickname, parentage, kinship and residence are forbidden (ECA article 143). Noncompliance to these rules is a violation punishable by fine, confiscation or suspension of programming stations or the publication of a newspaper (article 247). It is also a crime to take pictures or publish sex images involving children or adolescents, with a penalty of imprisonment of one to four years and fines for the offenders (article 241 of ECA). It is also possible to hold the providers accountable, as they incur in the same penalty as those who assure the means or services to the storage of pornographic material.

## **H. Access to relevant information**

139. ECA determines that the government must regulate public entertainment, informing about their nature, ages for which they are not recommended, and inappropriate locations and times for presentation (article 74). It is also mentioned that all children and adolescents will have access to shows and public entertainment classified as adequate to their age group (article 75) and that magazines and publications intended for children and teenage audiences must not contain illustrations, photographs, chronicles or advertisement of alcoholic beverages, tobacco, guns and ammunitions (article 79).

140. The Network of Collaborators for Indicative Ratings was created, comprised of citizens who participate in the rating process. Regulation 1.100/MJ, which sets out rating for public entertainment, especially audiovisual works intended for film, video, DVD, video games, role-playing games and similar purposes, was published in 2006.

## **I. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment**

**The Committee urged Brazil to fully implement its legislation and to take into account the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, in particular with regard to effective measures to combat impunity. The Committee also urged Brazil to include in its next periodic report information about the number of cases of torture, inhuman and/or degrading treatment of children reported to the authorities or relevant agencies, the number of perpetrators of such acts who have been sentenced by the courts and the nature of these sentences.**

**The Committee recommends that Brazil explicitly prohibit corporal punishment in the family, school and penal institutions, and undertake education campaigns that educate parents on alternative forms of discipline.**

141. Both Federal Constitution and ECA forbid torture – a crime for which bail is not allowed, and all forms of violence, cruelty and oppression against children and adolescents, as well as any inhuman, violent, terrorizing, harassing or embarrassing behavior. Cases of suspected or confirmed abuse against a child or adolescent must be forwarded to the Guardianship Council, to the Childhood and Youth Specialized Justice or to the District Attorney.

142. An important tool for measuring the problem of mistreatment of children and adolescents is the National Hotline, a service that has become a channel of communication, recording and referral of violations. As mentioned in such cases, recourse is made to the ombudsmen of SDH, of the polices, as well as the internal corrections unit of the polices (“corregedorias”), including the ones in institutions for deprivation of freedom in the social-educational system (Sinase), already implemented in some states of the South and Southwest, for example.

143. In 2006, the National Committee of Prevention and Control of Torture was created with the participation of representatives from the government, the Judiciary and organizations of the civil society to monitor the implementation of international instruments to fight torture in Brazil.

144. With Sinase, principles as the affirmation of pedagogic (and not just punitive) nature of the socio-educational measures and the right to mental and physical security and integrity led to the proposition of mechanisms to eliminate institutional violence, such as small regionalized units, with up to 40 adolescents and rooms with a maximum of three adolescents; individual care plans, with technical monitoring and legal assistance; disciplinary regulations included in the Municipal Rights Councils; and the absence of isolation cells in favor of spaces of protected coexistence.

### **1. Prohibition of corporal punishment**

**The Committee expressed its concern that corporal punishment is widely practiced in Brazil and that no explicit legislation existed to prohibit it. Corporal punishment is used as a disciplinary measure in penal institutions, “reasonable” punishment is carried out in schools and “moderate punishment” is lawful in the family.**

145. There is a consensus among experts in the field of childhood that the prohibition of corporal punishment – along with educational activities for families – is a way of reducing the incidence of more serious violence, such as spankings and subsequent deaths of children and adolescents. Accordingly, the National Congress bill 2.654/03, seeks to

impose a ban on any form of physical punishment of children and adolescents. The initiative is also supported by a group of civil society organizations, with the aim of reversing the cultural notion that children can only be disciplined by means of slapping, spanking, yelling and other psychological humiliations.

146. In this discussion, the role of the network “Don’t Spank, Educate!”, created with the objective of integrating actions of organizations that work to change the attitude of society about the use of physical and humiliating punishments against children and adolescents, has been fundamental. An initiative of great relevance was the establishment, in 2007, of a partnership between SDH/SNPDCA and the network. The agreement included support to a National Workshop that debated the question of punishment eradication and generated the proposal to include the theme in the formation and training of counselors of guardianship rights.

147. Finally, the “Escola que Protege” Project was implemented, based on the training of education professionals and the consolidation of protection networks, so that the professional can act against violence, approaching the theme in its multiple dimensions and its articulation with the educational field.

## **2. Children living with imprisoned mothers**

148. Brazil has been registering a significant increase in prison population, especially women. Their imprisonment aggravates the problem of maintenance and care of children who accompany their mothers. The Federal Constitution and the Criminal Execution Law set out the right of incarcerated women to remain with their children during the breastfeeding period.

149. There are 79 female prisons, and in over half of them, since there is no specific location, the children remain with their mothers in the cells. There are approximately 300 children accommodated with their mothers in jail. In 2007, the Ministry of Justice has started to map out the situation in facilities in all Brazilian states, and together with the Secretariat for Policies for Women it is developing a proposal to address the situation of these mothers and children.

# **V. Family environment and alternative care**

## **A. Parental guidance and parents’ common responsibilities**

150. Brazil recognizes that the primary responsibility for the development of the child and of the adolescent lies with parents or legal representatives. Therefore, the State must provide assistance to the parents to ensure protection, care and adequate standard of living to the child and the adolescent.<sup>16</sup>

151. As described in the latest report, in Brazil, father and mother share equal parental rights. Either one of them has, in case of disagreement with the other, the right to appeal to judicial authority for the resolution of such disagreement (ECA, art. 21). Parents have an obligation to provide support, custody and education for underage children (CF art. 229; and ECA, art. 22). The competent authorities must apply appropriate measures of protection to the child and adolescent whenever the rights recognized by law are threatened or violated by fault, omission or abuse from parents or guardians (ECA, arts. 98 and 129).

<sup>16</sup> According to art. 3.2, 18 and 27 of the Convention; art. 10 of the International Covenant on Economic, Social and Cultural Rights, art. 227 of the Federal Constitution and art. 19 of ECA.

152. Absence or shortage of material resources is not a sufficient reason for the suspension or loss of the family custodial power. In the absence of any other reason that, by itself, authorizes the enactment of separation measures, the child or adolescent will be kept with his/her family of origin, that must be included in government aid programs (art. 23 of ECA).

153. Brazilian legislation incorporates the international rules concerning family, the rights of the child and the adolescent and protection. Article 227 of the Federal Constitution establishes duties for the family, the community and the State to ensure as absolute priority the right to life, health, nutrition, education, sports, leisure, professional training, culture, dignity, respect, freedom, family and community living to children and adolescents. It also declares they should be kept safe from every form of neglect, discrimination, exploitation, violence, cruelty and oppression. The present Civil Code (Law 10. 406/02) defines attributions and obligations to parents and also refers to the concept of family and its arrangements that compose the Brazilian social structure.

154. According to IBGE, in 2007, the precarious economic situation worsens among women who are providers of children under the age of 16 years, representing 60% of the cases. Almost half (49%) of the Brazilian families, about 28.9 million, have children and adolescents under 14 years of age. The percentage of those families considered poor (with a per capita monthly income of up to ½ minimum wage) was 25% of the total households in the country, but reached 40% among families with children 0 to 14 years. When considering only families with children aged 0 to 6 years, the percentage is even higher: 45%. These results reveal the need for specific public policies for single-parent households headed by females, especially focusing on young children.

## **B. Separation of parents and family reunification**

155. In 2005, the total number of marriages carried out in Brazil was 835,846, or 3.6% above the 2004 total. On the other hand, the dissolutions of marriages in Brazil by means of judicial separations, in 2005, had an increase of 7.4% compared to 2004, resuming a trajectory of gradual increase. Divorces granted in 2005, when compared to the previous year, had an increase of 18% in the Northern region, and 22% in the Southeast. It is also worth noticing that in 90% of the divorces, the responsibility for the children was given to women.<sup>17</sup>

156. As discussed in the previous report, when children and adolescents are not living with one of their parents due to separation of the couple or divorce, the legislation provides for systematic regular meetings of the children with the absent parent in order to preserve family bonds. In extreme situations that may endanger the integrity of children and adolescents, the measure applied is the temporary separation between the parent and children.

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<sup>17</sup> IBGE. Synthesis of Social Indicators: An analysis of the living conditions of the Brazilian population.



## C. Adoption

**The Committee regretted the lack of statistic data about domestic and intercountry adoption in Brazil and recommended the collection in a systematic and ongoing manner of statistical data and relevant information on both domestic and intercountry adoption.**

157. With the purpose of optimizing the adoption in necessary cases, after exhausting all the resources for reintegration in the family and allowing for transparency in the procedures of the cases pertaining to this process, the Special Committee of the Adoption Law of the House of Representatives approved, in a report of 2006, the creation of two national registries: one for children and adolescents available for adoption and one for people interested in adopting.

158. The priority of the lists will be for adoption within the national territory. The single national registry will allow monitoring and supervising of the system of national and international adoption of children and adolescents, under the light of the article 21 of the Convention, actions that will allow greater transparency, control and reasonable decision making for the eradication of trafficking and sale of children for illicit adoptions; and also judicial decisions regarding child pornography and sexual exploitation.

### 1. National Adoption

159. Legal proceedings as regards to adoption in the Constitution, ECA and the Convention were described in the previous report submitted by Brazil to the Committee.

160. In order to improve the gathering of data on adoptions within the country, a computer system called SIPIA / InfoAdote was developed by SNPDC/SDH in partnership with the Court of Justice of Pernambuco for the national registration of people interested in adopting and children liable for adoption. For the adoption process to be transparent, quick, viable, and, at the same time, to foster a change in the culture regarding the adoption process, a new system was necessary. The National Adoption Registry must operate in coordination with the justice system nationwide.

161. Currently there is no official data on the number of children suitable to be adopted nor on intended adoptive parents. With the new system, it will be possible to have a panoramic view of the situation in the country and to assist the formulation of policies and actions for the improvement of the adoption process. The National Adoption Registry, besides offering greater flexibility to the adoption process, aims at enhancing the placement of children with profiles such as over five years of age, children with disability, groups of siblings, with specific health needs, or belonging to ethnic minorities. The National Plan for Family and Community Living also provides for investment in active search of families to adopt such children. The National Adoption Registry is an important resource to exhaust the possibilities of national adoption.

162. The results of the “National Survey of Shelters for Children and Adolescents” (IPEA/Conanda) boosted a broad debate about adoption in the country. In this context, the Bill on National Adoption (PL 6,222/2005) is under debate in the House of Representatives. It seeks to improve the national legislation on adoption, based on the recent advances observed in the country, particularly through the National Plan for Promotion, Protection and Defense of the Right of Children to Family and Community Living.

## 2. International Adoption

**The Committee recommended that Brazil:**

**(a) Strengthen monitoring and supervising of the system of adoption of children in the light of article 21 and other relevant provisions of the Convention and ensure that intercountry adoption is a measure of last resort;**

**(b) Take necessary measures for an effective implementation of the Hague Convention, including by providing the central authority with adequate human and financial resources;**

**(...)**

**(d) Implement the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2004/9/Add.2).**

163. Legal procedures regulated by the Constitution and ECA were described in the first report presented to the Committee. International adoption is an exceptional measure in Brazil and should be used only after exhausting all attempts of adoption within the country.

164. Brazil has enacted the Hague Convention of 1993 (relating to the protection of children and cooperation in matters of international adoption) through Decree 3,087/99. The Hague Convention of 1980 (on the civil aspects of international child abduction) was enacted by Decree 3,413/00.

165. In 2001, the Federal Central Authority (ACAF) was established to oversee the international adoption and cases of international abduction of children. Its duties include fulfilling the administrative procedures pertaining to international judicial cooperation and compliance with the Convention, and participating in the process of accrediting foreign organizations for international adoption. ACAF operates in coordination with various governmental agencies. In matters of international adoption, it also follows the rulings of the Council of Brazilian Central Authorities, a collegiate body chaired by SDH and consisting of 27 Prosecutor Offices and governmental representatives.

166. Brazil regulated international adoptions and the actions of foreign and national organizations working in the field of international adoption (Decrees 5,491/05 and 5,947/06). These organizations are responsible for sending to ACAF and to Judicial Commissions for Adoption (CEJAs) the certificates of foreign citizenship granted to adopted Brazilian children, in order to ensure full protection of those within the jurisdiction and laws of the country of their new residence. They must also submit annual reports of its activities, detailing the number of adoptions carried out, costs involved and contributions to social projects.

## D. Child abduction and non-return

167. In cases of abduction of children, the Central Authority works in partnership with the Brazilian Attorney General. Mediation attempts in search of agreement between the parents are common. Additionally, cooperation has been established with Interpol, which locates children who are brought to Brazil and do not have their addresses confirmed by the requesting country. Such activities also involve the participation of the Ministry of Justice, Ministry of Foreign Affairs, Brazilian consulates, central authority of the foreign country concerned, federal judges, and technical assistants for Union and for Courts of Justice in Brazil (Table 8).

168. The Brazilian Prosecution Office engaged in partnership for the submission of complaints in cases where there was evidence of crime, and for the articulation of joint activities with the Central Authorities of Portugal, Argentina, Chile, Mexico, United States, Germany, Italy, Israel, Canada Greece, Ireland, Norway, Paraguay, Uruguay, Switzerland, Australia, Hungary, Spain and Holland.

## **E. Periodic review of placement**

169. Brazil undertook, in 2003, the “National Survey of Shelters for Children and Adolescents”.<sup>18</sup> The Survey demonstrated the need to strengthen policies to assure the principles of exceptionality and provisional nature of shelter. According to the survey, there were 19.373 children and adolescents in 589 institutions supported by funds provided by the Federal Government to welfare policies. The profile of long-term children and adolescents found in these institutions do not correspond to the expectations of most intended adoptive parents, who usually prefer white female babies. Most of the children living in shelters are boys (59%) of African descent (63%) and aged between 7 and 15 years (61%).

170. The research also showed that the great majority of the children and adolescents (87%) had a family, and 58% of them kept constant links with their relatives. Only 6% were judicially prevented from contact, and only 5% were orphans. Most programs carry out visits of children and adolescents to their families of origin or allow free visits of relatives to shelters. Only 31% performed the two actions together. Most programs also prioritize the maintenance or reconstruction of sibling groups.

171. Although the lack of material resources does not constitute reason for the loss or suspension of family power, the survey showed that in 24% of the cases the placement in shelters was motivated by poverty. The situation of poverty of the family was also identified as the main difficulty for the return to family life of 36% of the children in shelters. The following reasons were also mentioned for the placement in shelters: abandonment (19%), domestic violence (18%), chemical dependency of parents or guardians (11%), living on streets (7%) and orphanhood (5%).

172. As for actions aimed at community life undertaken within shelters, only 7% of the shelters surveyed employed all the necessary services available in the community, such as kindergarten and elementary education, vocational training for adolescents, medical and dental care, cultural activities, sports and recreation, and legal assistance. The study also pointed out that many children were living in institutions longer than expected. Over half of the children and the adolescents had been living in those institutions for over two years, whilst 33% had been in shelters for a period between two and five years, 13% between six and ten years and 6% for over ten years.

173. The survey also showed that most children living in shelters are not eligible for adoption. Only 11% were judicially able to be referred for adoption. Furthermore, most institutions are non-governmental, oriented by religious values, directed by voluntaries and, fundamentally, dependent on their own resources for operation.

174. In summary, the survey indicated the need to reorganize assistance practices in shelters and to strengthen policies to support families, so that the safety net may respond more effectively to the issue of children and adolescents who are at risk of being removed from their family and also those who are already in shelters. The data also shows the need for changes in the Justice system.

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<sup>18</sup> Ministry of Social Development, conducted by Ipea with the support of Conanda and SDH.

175. Since 2007, SNPDC/SDH has provided resources to support projects for the implementation of the National Plan. Funding includes initiatives for the qualification of professionals, for studies and research, and for the systematization of innovative experiences. Some of the projects supported include the development of books and DVDs designed to support training of shelter professionals; dissemination of programs for foster families; and financing of mobilization initiatives by the National Working Group for Family and Community Life. This network, also supported by UNICEF, held 9 workshops in 2006-2007, which gathered more than 2.6 million participants and resulted in 253 media placements.

## **F. Abuse and neglect**

**The Committee recommended that Brazil:**

- (a) Carry out preventive public education campaigns about the negative consequences of ill-treatment of children;**
- (b) Take the measures necessary to prevent child abuse and neglect;**
- (c) In addition to existing procedures, establish effective child-sensitive procedures and preventive mechanisms to receive, monitor and investigate complaints, including through the intervention of social and judicial authorities where necessary, to find appropriate solutions, paying due regard to the best interests of the child;**
- (d) Give attention to addressing and overcoming sociocultural barriers that inhibit victims from seeking assistance;**
- (e) Seek assistance from, among others, UNICEF and the World Health Organization (WHO).**

176. The Federal Government has been promoting systematic awareness campaigns on the issue of violence against children and adolescents. Some of these initiatives are undertaken in partnership with the Judiciary, the Legislative, business segments, agencies and international organizations and civil society sectors. Some highlights are described on Frame 8 of the annex.

## **VI. Disability, basic health and welfare**

### **A. Children and adolescents with disabilities**

**The Committee recommended establishing an appropriate definition of disability and, on the basis of the definition, making a reassessment of the number of persons with disability, in order to formulate a comprehensive policy for children with disabilities.**

177. In 2004, Decree 5.296 revised and expanded the legal concept of people with disabilities and stated that public agencies, companies providing public services and financial institutions will give priority assistance for people with disabilities or reduced mobility. Disabilities would therefore fit in the following categories: physical, hearing; visual, mental, and multiple disabilities (Frame 9).

178. In 2000, the Demographical Census adopted a broader concept of disability, which included the perception of people in relation to the alterations provoked by disability in the

capacity to participate in social life. The survey results reflect this new conceptual and methodological approach, recording the existence, in the country, of 24.5 million people with disabilities (15% of total population). As for the number of children and adolescents with disabilities, they comprised 22% of a total of 4,267,930 people, equivalent to 1.4% of the total population of the age group 0-19 (Tables 9 and 10).

179. Several efforts have been made in recent years to overcome the lack of a database on persons with disabilities. It is worth noting that the item – existence of disability – is already present in the declaration of live births as well as on booklets on the health of the child and woman. The school census and the Program of Continuous Provision of Benefits also record the number of registered children and adolescents with disabilities.

180. Decree 5,296/04 requires the elimination of physical and architectural barriers to access to and use of public buildings and transportation by individuals with disabilities and determines that governments must carry out reforms to enable accessibility in buildings under their administration. Such regulations have prompted initiatives across the country to promote accessibility to public and collective environments, means of transportation and communication.

181. Brazil signed the Convention on the Rights of Persons with Disabilities as well as its Optional Protocol without reservations in 2007 and they were internalized as amendments to the Federal Constitution. Since then, several ministries have been found involved in the theme.

182. The National Health Policy for Persons with Disabilities includes: early diagnosis; programs to prevent disabilities; vaccination (which has reached 90% coverage, and polio and measles are considered eradicated in the country); and initiatives to improve food and nutrition. The Guide to the Physical Structure of Basic Health Units was also issued orienting the elaboration of architectural plans in accordance to regulations of accessibility.

183. There was significant progress in the implementation of special education programs for children with disabilities and their inclusion in the regular school system. The National Education Plan of 2001 guaranteed access for children with disabilities to the regular school system. The major change in access to education was the restructuring of educational systems to expand the inclusion of students with special educational needs in regular classes. This work has achieved significant progress, but faces important difficulties not only in relation to the scarcity of financial resources but also of qualified teachers.

184. In 1998, there were only 43,923 students with special needs enrolled in regular schools, and this number increased to 262,243 by 2005, representing 41% of the total enrollment in special education. In aggregate, there were 640,317 enrollments in special education, including both regular schools and special schools for people with disabilities (Table 11). There are 57,308 schools offering special education for 777,769 children and adolescents. In this school system, there are 2,724 schools exclusively for special education care for 301,500 students. Another 4,325 regular schools offer special classes that care for 74,010 students. The other 50,259 schools offer regular education to 136,300 students with special educational needs, integrated in common rooms and receiving specialized pedagogical support. However, approximately 188,700 students have no specialized pedagogical support. Although the total enrollment in public schools is higher – 59.9% versus 40.1% from private schools – the presence of specialized private institutions is still remarkable (Table 12).<sup>19</sup>

<sup>19</sup> INEP School Census, 2005 and 2006.

## **B. Health and health-care services**

**The Committee urged Brazil to continue to develop the health system, ensuring the provision of the highest standard of health for all children, paying special attention to children in rural and geographically remote areas as well as those belonging to low-income families.**

185. Since 2003, the Ministry of Health is prioritizing service to most vulnerable populations such as children. Such action takes place with the elaboration and implementation of public policies within a territorial basis, articulated through intra- and inter-sectorial networks, and seeking integrated action within the Unified Health System.

186. The Family Health Program is one of the biggest programs for promoting door-to-door family health care in the world. It involves initiatives of the Federal Government, 27 states, and 5,264 municipal governments, with more than 220,000 community health workers, giving attention to 110 million people, especially in impoverished areas. It consists of a model of health care that prioritizes actions on the principles of territoriality, mainstreaming, decentralization and shared responsibility, and population groups with a higher risk of disease or death. Over the last five years, significant investments have been made on the program, which represents the greatest guarantee of supply of basic care in the history of public health in Brazil.

### **1. Health of Children and Adolescents**

187. The Ministry of Health has defined in its structure the Technical Areas of Child Health and Breastfeeding and the Technical Area for Adolescent and Youth Health, considering that this constituency must be treated with absolute priority. The Ministry defines children as individuals aged 0 to 9 years and adolescents as individuals aged 10 to 19 years.

#### *1.1 Integral attention to the health of the child*

188. The Child Health Handbook, launched in 2005, brings information relating to the care for baby's health as well as the routine immunization schedule, with special emphasis on activities of vaccination and screening tests that help to prevent disabilities (Table 13).

189. The National Program for Malaria Control, established in 2003, seeks to improve access to diagnosis and provide treatment as early as possible. The total number of cases of the disease in children and adolescents was 408,821 in 2003, reaching its height in 2006, with 605,026, and falling back over the basic, reaching 456,809 cases in 2007. In the scope of Family Health, there was a reduction of deaths from infectious diseases, parasitic diseases and acute respiratory infections in children under five years-old from 14.8% to 12.3% in 2007.

190. During the period from 1990 to 2007, the infant mortality rate has shown a tendency of decline throughout the country (47.1 to 19.3/1,000), with an average reduction of 59%, a reduction of -4.8% yearly (Graph 4). The government recognizes that, while the infant mortality rate has decreased over the last decade, it still remains at a high level. In the analysis of the causes of death in children under one in 2006, it was observed that 71% of the deaths were avoidable, and this percentage remains unchanged since 1997 (Graph 5). In 2004, the Government launched the National Pact for the Reduction of Maternal and Neonatal Mortality. This is a priority strategy for reducing maternal and neonatal mortality.

#### *1.2 Integral attention to the health of adolescents*

191. The National Policy on Comprehensive Health for Adolescents and Youth was approved in 2007. Its priority is providing growth and development for the adolescent, as

well as sexual and reproductive health and the reduction of mortality by external causes. The policy includes preventive measures and initiatives that were integrated to the Plan to Combat the Feminization of AIDS, the National Policy for the Prevention of the Use of Alcohol and Other Drugs, the Health Promotion Policy and the Health and Prevention in Schools Project. The main goals of the National Policy for the Prevention of the Use of Alcohol and Other Drugs, enacted by Decree No. 6,177/2007, are also noteworthy: to reduce global and personal consumption of alcoholic beverages; to change the pattern of harmful use of alcohol especially among youth; to reduce the association of accidents/fatalities and consumption of alcoholic beverages; and to expand accessibility of assistance by SUS in Basic Care and Psychosocial Care of Children and Adolescents (Capsi) and general hospitals.

### *1.3 Mortality of children and adolescents due to external causes*

192. In Brazil, the health sector recognizes violence as a public health problem because of high rates of deaths caused by external causes (accidents and violence) in the country, along with high economic and social costs to the state and the families and the years of potential life lost. In 2001, the National Policy for Reduction of Morbidity – Mortality from Accidents and Violence (Decree 737/2001) was established. Some of its guidelines are the mobilization of the society and the coordination of health activities with other sectors, in order to structure and strengthen intersectorial actions for the prevention of and assistance to the victims of violence.

193. Among children from 0 to 9 years the main causes of death were traffic accidents (32%), drowning (23%) and breathing difficulties (17%). Aggression (violence) appears as the fourth leading cause of mortality. The leading causes of death among adolescents (10 to 19 years of age) were violence (53%), followed by traffic accidents (26%) and drowning (9%). Adolescents aged 15 to 19 follow this profile with 58% of deaths due to violence. In the age bracket ranging from 10 to 14, the main causes of external deaths were traffic accidents (36%).

194. In the year 2006, the “Violence and Injury Surveillance – VIVA” program was established. The data collected in the period 2006 to 2007 by VIVA presented sexual violence as the main cause of referral to care services of children and adolescents (Graph 6). The 1,939 cases of violence against children were caused by sexual violence (44%), psychological violence (38%), neglect or abandonment (33%) and physical violence (29%). The 2,370 cases of violence against adolescents were caused by sexual violence (56%), psychological violence (50%), physical violence (48%), and neglect or abandonment (13%). The family home was the place where most violence against children (58%) and adolescents (50%) occurred, followed by public streets with 20% (Graph 7). Female children and adolescents are the main victims, with 60% and 78% of the total (Graph 8).

195. Strengthening health networks for the comprehensive care of children, adolescents, young victims and perpetrators of violence is the core of the work for combating violence against this population, especially in the form of sexual and domestic violence.

### *1.4 Reduction of Maternal Mortality and Attention to Reproductive Health*

196. In Brazil, maternal mortality rate in 2000 was 45.8 maternal deaths per hundred thousand live births. However, this rate does not provide the real dimension of the problem of mortality due to complications in pregnancy, childbirth or postpartum. In 2001, the maternal mortality ratio was 74.5 deaths per hundred thousand live births in the capitals. In 2005, direct obstetric causes, including abortion, caused approximately 73% of maternal deaths (IPEA 2007).

197. These indicators are considered a clear sign of inadequate health care during the prenatal period. In Brazil, only 53% of pregnant women made more than six appointments with a doctor in 2005. In the South and Southeast, 68% of women made more than seven appointments, a figure that drops, in the North and Northeast, to 29% and 35%, respectively. Of the total number of fifty-two thousand women who had no access to prenatal care in 2005, 68% were black.

198. Given this scenario, the “National Pact for the Reduction of Maternal and Neonatal Mortality”, was signed, with the goal of articulating the social agents around the improvement of quality of life of women and children and achieving a 15% reduction in maternal and newborn mortality. To this end, 457 maternity teams including 1,857 health professionals received special training. Besides that, to reduce regional inequalities, 370 community agents, 85 multipliers and 904 traditional midwives were also trained in eleven states. Technical and financial support was given to nursing schools in every state for the implementation of 34 courses of specialization in obstetric nursing. It also included the acquisition of means of transportation exclusively for pregnant women, the increase of authorizations for tubal ligation and vasectomy, and the availability of reversible contraceptive methods in every Family Health Unit.

199. Another important instrument for monitoring and reducing maternal and neonatal mortality was the implementation of the Investigation Committee on Maternal and Neonatal Mortality. In the period 2005 to 2007, there was an increase of 1,519 municipalities investigating maternal deaths, with the installation of 19 regional committees of maternal death, 145 municipal committees and 59 committees in hospitals.

#### 1.5 *Food Security and Fighting Malnutrition*

200. Malnutrition in children under one year-old dropped by more than 60% over the past five years. The number of malnourished children under two years is also decreasing. The proportion of children with low weight for their age in Brazil dropped from 13% to 3% between 2000 and 2006, representing a 72% reduction. However, the prevalence of children under two with low weight is four times higher in the Northeast region than in the South region reflecting conditions associated with poverty and inequality.

201. The Federal Government adopted in 2003 the “Fome Zero” program, with the purpose of organizing programs and projects that modify the conditions of nutrition and ensure the human right to adequate food for all the Brazilian population. The initiatives include the expansion of the production and consumption of healthy foods, the generation of employment, and improvements in education, health conditions and access to water.

202. Within the “Fome Zero” strategy, “Programa Bolsa Família” should be highlighted. Established by Law 10,836, of 2004, it is a program of conditional cash transfer, which benefits poor families. The national consolidated number shows that 19% of children benefiting from the program have very low birth weight or nutritional risk, with higher prevalence of these risk factors in the North and Northeast.

#### 1.6 *Actions to prevent and control micronutrient deficiencies in Brazil*

203. In Brazil, local studies have shown that the lack of vitamin A affects 15% to 33% of children under five. The Ministry of Health established the National Vitamin A Supplementation Program, which distributes vitamin capsules to children from 6 to 59 months of age as well as to mothers in the immediate postpartum period.

204. In 1999, the Social Commitment for the Reduction of the Iron Deficiency Anemia was established, to reduce anemia by promoting healthy eating and consumer orientation towards the diversification of diet at low cost, together with the distribution of supplements



for specific population groups. Flour fortification was determined by Resolution RDC 344/02.

205. The National Program for Iron Supplementation was established in 2005 and consists of universal supplementation of all children from 6 months to 18 months of age, pregnant women starting from the twentieth week and women until the third month postpartum.

### *1.7 Increase of Access to Sanitation and Safe Drinking Water*

206. In Brazil, the limited availability and the inadequate quality of services of water supply and sanitation, as well as inadequate housing conditions and lack of safe water for human consumption are strongly associated with infant mortality and the incidence of diseases. It is estimated that, for every increase by 10% in the number of households with a toilet and running water, almost nine deaths of children under five per thousand births are avoided. In order to overcome the current scenario, the Multi-Year Plan of 2003-2007 predicted spending R\$ 12.9 billion for the expansion of access to sanitation and quality drinking water.

## **2. Adolescent Pregnancy**

**The Committee expressed concern with the high rates of early pregnancy that mainly affect the socially underprivileged segments of the society.**

207. Since 2000, Brazil is experiencing a gradual decline in the number of childbearing on adolescent mothers between 15 and 19 years of age (Graph 9). In 2003, there were 646,838 births among the age group from 10 to 19, which decreased to 527,341 in 2007, representing a drop of 19%. However, the number of adolescent mothers is still relatively high in the North and Northeast.

208. The Ministry of Health has been implementing campaigns to prevent Sexually Transmitted Diseases (STD) and AIDS and to reduce the damaging use of alcoholic beverages by young people; policy strategies regarding adolescent reproductive health, including emergency contraception; the inclusion of sex education in schools; and use of mass media to expose among young people the negative consequences of unplanned pregnancies.

## **3. Reproductive and mental health**

**The Committee recommended further improving the adolescent health programme addressing, specifically, reproductive health issues, sex education and mental health.**

**The Committee also recommended taking into account the Committee's General Comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4).**

209. In 2005, eight ministries joined efforts to the policy on Sexual and Reproductive Rights. Family planning is one of the actions proposed, with the increase in the availability of contraceptive methods, the expanded access to voluntary surgical sterilization in the SUS, the holding of preventive educational activities regarding health and prevention in schools, the support to the development of research related to these issues and the granting of specific attention to sexual and reproductive health of adolescents and young adults, including those deprived of freedom.

210. Initiatives regarding the improvement of sexual and reproductive health of adolescents are guided by the principles of confidentiality and privacy, contemplating the specificities of adolescence. Such initiatives should ensure access to information and

educational activities, health care activities and contraceptive methods, respecting the right to an informed choice.

211. The most recent trends in the rate of AIDS in Brazil allow some degree of optimism. In the age group from 13 to 19, the incidence increased from 2000 until 2002-2003, then fell and reached, in 2006, levels below those reached in 2000 (Table 14). The number of cases among blacks and women, however, continues to grow more rapidly than among whites and men. An increase in the proportion of heterosexual transmission among adolescents has also been observed, especially among women. There are more than twenty thousand new cases of HIV transmission per year among the population between 15 and 24 years. Currently, for every new case of a 13 to 19 years-old boy contaminated by HIV, 1.5 girls of the same age acquired the virus. The National Plan to Combat the Feminization of AIDS was created to revert this trend. The increase in the use of preservatives among young people in their first sexual intercourse is noteworthy. Behavioral research in 2004 estimated that 67% of the sexually active population used preservatives in its latest sexual intercourse with an eventual partner.

212. When it comes to the prevalence of HIV among infants and children, the main indicator is the rate of vertical transmission. In a study conducted by the Brazilian Society of Pediatrics, the rate was of 8% in 2004, varying from 13% in the North to 4% in the Midwest. This indicator registered a prevalence of around 4% in 2003. The goal for the period 2004-2007 was a reduction of 45% in prevalence of HIV in infants, reaching a level of 2% in late 2007. This reduction has been achieved in areas where prophylactic measures were prescribed such as chemoprophylaxis measures to prevent mother-child transmission and other initiatives, such as specialized training of assistants for pre-natal, childbirth and newborn care. Concerning children affected by HIV / AIDS, a national initiative to guarantee supply of infant milk formula to children born to HIV-positive mothers for six months should be highlighted. Currently, it reaches 50% of children born to mothers infected with HIV.

213. Initiated in 2003, the "Health and Prevention in Schools" Program includes youth participation in tackling themes like the prevention of the abuse of alcohol and other drugs, of sexually transmitted diseases like AIDS, as well as sexual and reproductive health. The School Census in 2005 showed that 99% of public schools in secondary education regularly developed sexual orientation initiatives and 60% of public schools in elementary and secondary education developed continuous initiatives for the prevention of HIV/AIDS and other STDs.

214. The Policy for Comprehensive Health Care of Adolescents Deprived of Liberty under Internment and Provisional Internment Social-educational Measures aims to provide the assistance of Unified Health System to sixteen thousand adolescents deprived of liberty. Regarding the training of health professionals who serve at the social-educational facilities, a partnership with the University of Brasília was established for the development of methodology and guidelines for mental health care in the system.

215. The mental health care network underwent a significant expansion in the number of Psychosocial Attention Center (CAPS), which increased from 500 in 2002 to 1,156 in 2007. The therapeutic homes also increased, from 85 in 2002 to 475 in 2006. Additionally, Community and Cultural Centers were also implemented in the major cities as a means of social inclusion of people living with mental disorders. In 2006, there were about sixty of them. In 2007, the Working Group on Mental Health and Human Rights was created with the goal to promote the rights of children and adolescents accommodated in shelters, in the social-educational system and in psychiatric hospitalization, by monitoring and reporting cases of violations observed in these institutions.

## C. Social security

216. In 2004, Brazil approved the National Policy for Social Services, which took form with the creation of the Unified Welfare System. This policy is intended to operationalize the Law for the Organization of Welfare (LOAS – Law 8,742/1993), and enable a regulated, decentralized and participatory system.

217. The Ministry of Social Development and Fight Against Hunger/MDS, which coordinates the implementation of this policy, has an intersectorial approach to programs and projects. Initiatives now have a single management, increasing the effectiveness and synergy of the governmental action in the social area, simplifying decision-making and avoiding the superposition of structures.

218. The assisted population is characterized by social vulnerability resulting from poverty, deprivation – such as lack of income, precarious or no access to public services – and also by the weakening of social bonds and the sense of belonging, due to discrimination grounded on age, ethnicity, gender or disability. Considering the diversity and complexity of these situations, social protection services were organized in a two-level hierarchy: Basic Social Protection and Special Social Protection.

### 1. Basic Social Protection

219. Services are provided by co-financing among federal, state and municipal spheres for the funding of the Integral Care to the Family Program (Paif), implemented through Welfare Reference Centers (Cras). These centers act as local and territorial references, develop welfare assistance to families and individuals and promote the enhancement of the basic local assistance network. Paif promotes strengthening, emancipation and social inclusion of vulnerable families through the following activities and services: hosting, monitoring, insertion in services of convivality, and referral to other services.

220. Basic Social Protection also makes it possible to provide complementary care, such as: daycare services for children from birth to the age of six, caregiving, monitoring of young people who receive the Agente Jovem aid, and actions directed to vocational training. 4,727 municipalities are co-financed, providing care to nearly 1.6 million children (Table 15). Co-financing from the Federal Government aims to support daycare centers, preschools and welfare services for children up to the age of six and their families.

221. The concession of aid for young people in situations of social vulnerability seeks to ensure channels to insert them in activities that promote citizenship, to remain in the educational system and to start in the job market. The insertion of the young beneficiary of the Agente Jovem aid in the Unified Registry resulted in a significant increase (increase of over 600%) in the number of young adults who joined the Unified Registry. However, the total number of young people enrolled in the Register as of October 2006 represented only about 16% of young people assisted.

222. In 2007, the new National Program of Youth Inclusion (ProJovem) was launched. Its beneficiaries are young adults of 18 to 24 years of age who completed the fourth grade, but have not completed the eighth grade and have no formal work ties. It offers opportunities for achieving further education, providing professional training, planning and execution of community actions. It provides comprehensive training with a workload of 1,600 hours, taken in 12 consecutive months and includes subjects such as elementary education, English, computer classes, vocational training, social and community activities. Each student, as a form of incentive, receives aid of R\$ 100 per month, provided they have 75% attendance to classes and fulfill the scheduled activities.

## 2. Special Social Protection

223. It is the modality of assistance aimed at families and individuals at personal and social risk because of neglect, physical and/or psychological abuse, sexual abuse, use of psychoactive substances, and at children and adolescents subject to social-educational measures, homeless, or in a situation of child labor. These are services that require individual attention and greater flexibility in the search of protection, monitoring, support and effectiveness in the desired reintegration. Special protection services interface closely with the justice system and the System for the Guarantee of Rights of Children and Adolescents.

224. Social protection of medium complexity comprises actions aimed at children and adolescents victims of violations, but who live with their families and communities. These programs require a technical and operational structure larger than basic protection. The main services in this category are articulated by the following programs: the Eradication of Child Labor Program (PETI), the Social Protection Program for Children and Adolescents Victims of Violence, Abuse and Sexual Exploitation and Their Families (Sentinela), and the Specialized Welfare Reference Centers (Creas).

225. Social protection of high complexity addresses the needs of individuals and families without reference or in situations of abandonment, threat or violation of rights, in need of special temporary protective measures outside their families or communities of origin. The emphasis is on the rearrangement of hosting services and care practices,<sup>20</sup> aiming to adapt them to applicable legal frameworks and to the needs of the life cycle of beneficiaries.

## D. Standard of living

In paragraph 57, the Committee highly recommends that Brazil:

(a) **Continue to strengthen its policies and programmes to combat the factors responsible for the increasing number of children living in extreme poverty;**

(b) **Take measures in order to effectively reach the poorest segment of the population, by offering equal access to health, education, housing and other social services;**

(c) **Develop programmes and policies to ensure that all families have adequate resources and facilities.**

226. In spite of the significant number of children and adolescents living in poverty (Graphs 10 and 11), their standard of living has improved in recent years. Child mortality has decreased, public school enrollment has grown, child labor is close to eradication, access of the poorest communities to water supply, sanitation and electric power improved and SUAS was implemented.

227. As mentioned in the previous Brazilian report, the cash transfer programs have improved the income level of families in situations of poverty, such as “Bolsa-Escola”, “Bolsa Alimentação” and “Auxílio-Gás” since 2001. In 2004, the “Bolsa Família” Program (PBF) was established by Law 10.836/04, unifying the procedures for the management and implementation of cash transfer programs.

<sup>20</sup> The National Policy of Social Assistance recognizes the possibility of these services to children to be organized in different modalities: *Abrigo Institucional, Casa-lar and Programa de Famílias Acolhedoras*.

228. The program is based on the articulation of three dimensions to overcome hunger and poverty: the promotion of immediate poverty relief through direct cash transfer; the access to social rights in the areas of health and education; and the coordination of complementary programs that aim at the development of families. To receive the benefits, families must fulfill some conditionalities in the areas of health, nutrition, diet and education.

229. Children up to six years represent 10% of all program beneficiaries. In the Northeast, the percentage is 48%, followed by the Southeast, with 27% (Table 16). Beneficiaries are families with children and adolescents up to 15, with a monthly income of up to R\$ 120.00 per capita.<sup>21</sup> This set of initiatives contributes to prevent the abandonment of children in shelters due to poverty, and also to strengthen family reintegration for those who remain in shelters for this reason alone.

## VII. Education, leisure and cultural activities

### A. The right to education and vocational training and guidance

**In paragraph 59, the Committee recommended (a) increasing Brazilian expenditure on education and ensuring the allocation of budgets at all levels, while devising policies that take into account the Committee's General Comment No. 1 on the aims of education; (b) strengthening its efforts to improve the quality of education, inter alia, by revising school curricula, introducing child-centred and active teaching and learning methods and integrating human rights education; (c) increasing the completion rate of primary education and ensure that primary education always be free of charge; (d) seeking technical cooperation from, inter alia, UNESCO and UNICEF.**

230. In 2007, the Education Development Plan was drafted, defining new goals for basic education.<sup>22</sup> In 2006, mandatory primary schooling increased from eight to nine years. Basic schooling is formed by child education, by elementary school for children aged 6 to 14, and secondary school, for those from 15 to 17. There is also schooling for adults without regular education, as well as vocational and special education for people with disabilities. Public education holds the largest share of enrollment in basic schooling. The 2006 School Census showed that 83% of educational establishments are public and 17% are private.

231. Child education remains the administrative and budgetary responsibility of the municipalities, while primary and secondary education are the responsibility of both states and municipalities; the Federal Government supports most of public higher education. By replacing Fundef (Fund for Maintenance and Development of Fundamental Education and Valorization of Teaching) by Fundeb (Fund of Development of Basic Education and

<sup>21</sup> According to the report Situation of Children, from UNICEF.

<sup>22</sup> The new goals of the Education Development Plan are: (a) having children achieve literacy by the age of eight; (b) following each student of the public school network individually; (c) Combating school failure, by means of catch-up work or partial progression; (d) Fighting evasion; (e) Prolonging the school hours; (f) Strengthening the educational inclusion of people with deficiencies; (g) Promoting child education; (h) Instituting training programs and implementing career plans, jobs and salaries for education professionals; valuing the merits of the education worker; (i) Establishing clear rules, considering merit and performance, for the nomination and exoneration of school principals; (j) Promoting participatory management in the school system; (k) Promoting and supporting school councils and others.

Valorization of Teaching Professionals) in 2006, the model for financing basic education improved in at least two aspects: it increased the contribution of the Federal Government to basic education, by complementation, from about R\$ 500 million to R\$ 5 billion a year; and instituted a single fund for all basic education. Furthermore, with the implementation of the 2007 Education Development Plan, the Federal Government will add, in addition to Fundeb, R\$ 19 billion annually to the budget of the Ministry of Education.

232. In 2007, almost half of the budget to the area of childhood and adolescence was used by Fundeb, which represented about R\$ 14 billion. The Literate Brazil program, which aims to ensure access to and permanence of all children and adolescents in basic education, was the second biggest budget program, and the program “Training and Promotion of Teachers and Education Workers” represented the third most important budget item.

233. In 2005, the Evaluation System of Basic Education was redesigned as a result of the first countrywide assessment of basic public educational performance. Concerned about the low learning levels and the high rates of evasion and repetition, the government decided to combine information on school performance with information on school achievements into a single quality indicator, the Index of Basic Education Development (Ideb). The creation of Ideb, calculated for each school, school system and for the whole country, enabled setting medium and short-term goals for educational development.

## **1. Educational Policy in Brazil**

### *1.1 Child education*

234. Since the expansion of basic education in 2006 to nine years, the educational system included children from birth to five years old. The lack of access to this educational level is still a problem, as less than half of the 23 million boys and girls in this age group attend daycare and/or pre-school; of the 11 million children under three, only 15.5% attend daycare, whereas 76%, approximately seven million children aged four to six are enrolled in preschool. Altogether, there are 9.5 million children up to three out of daycare and 2.2 million between four and six who do not attend preschool; of the total number of children aged four to six years out of school, 58% are black, which corresponds to 1.3 million children (Tables 17 and 18). The evolution of daycare enrollment in public and private institutions is demonstrated in Table 19. There are also differences between the evolution of daycare and pre-school enrollment in urban and rural areas, according to data in Tables 20 and 21.

235. Even with the expansion of enrollment in child education, the demand continues to increase, especially among the poor, where the percentage of enrolments is almost three times lower than for families with a per capita income above five minimum wages. As a result, in the higher social strata, children arrive at first grade with greater schooling experience. Therefore, the Federal Government created the “Proinfância” program, which finances the expansion of public child education as part of the Education Development Plan, with a budget of R\$ 340 million in 2007.

236. The goal established by the National Education Plan is that, in 2011, 50% of children up to three and 80% of those at age of four and five must be enrolled in daycare and preschool. It also provides that 70% of teachers at this level should have higher education degrees.

### *1.2 Basic Education*

237. Between 2000 and 2005, the level of enrollments in primary and basic school remained unchanged. Despite an enrollment rate of 98% of the total of Brazilian children in basic education, recent data shows that the supply is insufficient to guarantee the

universalization of compulsory education. It is noteworthy that two thirds of children aged 7 to 14 years out of school are black. Furthermore, in the North and the Northeast, only 38% of the children complete basic education, while in the more developed regions (South and Southeast), this rate is 70% (Table 22). The goal of the Government is that no child aged 7 to 14 years be out of school.

238. Although evasion has had a small drop in the last five years, the rate of repetition in basic school has grown in all regions. The highest levels of evasion and repetition, which are the cause of great delays in the learning cycle and significant increase in age–grade distortion, are found in the North and the Northeast. In Brazil, young people may finish basic education at the age of 15, but only 66% achieved this in 2003 (Table 23). A slight improvement was detected in performance indicators for basic education between 2004 and 2005, when the rate of approval increased by about 0.8%, and the dropout rate decreased by 0.8%. The failure rate remains the same (13%).

239. Data from 2004 to 2006 shows a positive evolution towards a greater length of stay of children in school. In 2004, only 3% of students enrolled in basic education attended schools with shifts of more than 5 hours. In 2005 and 2006, this proportion was approximately 8.

### 1.3 *Secondary Education*

240. Of the 21 million adolescents between 13 and 17, 3.5 million go to school. Moreover, 82 out of every hundred children entering primary school will finish the fifth grade; 59 will conclude the eighth, and only 40 will complete high school (Table 24). The completion rate of secondary education has doubled over the last decades from 20% to over 40%. The enrollment rate of secondary school for young adults aged 15 to 17 years is 46%. The government goal is to reach a rate of 69%.

241. Between 2004 and 2005 it has been observed that, in secondary education, there was a small decrease of 0.7% in the dropout rate. However, the general data showed an increase of 2% in the failure rate, which went from 10% (2004) to 12% (2005). However, contradicting the idea that greater failure could lead to greater dropout, data reveals that regions that have lower failure rates – the North and the Northeast, with 9% – correspond to higher dropout rates (21%).

### 1.4 *Professional Education*

242. The inclusion of young people and adults in the professional education system gained importance. The National Program for the Integration of the Professional Education with Basic Education as regards the Education of Young People and Adults (Proeja), included in FUNDEB, offers professional education integrated to secondary education, while the National Youth Inclusion Program (Projovem) steers municipal systems in the same direction in the final grades of elementary school.

243. Funds for current expenditure, as well as staff in the federal network of professional and technical education have also increased. From 2003 to 2006, 3,433 teachers and administrative technicians were hired. In a similar vein, in almost a century, between 1909 and 2002, only 140 units of federal professional and technological education in the country had been created; from 2003 to 2007, however, 214 new federal units will be authorized, an increase of 150% in the federal system of professional and technological education in just eight years. In 2006, there were 744 thousand enrollments, which correspond to a growth of 5% compared to the previous year. This growth was particularly strong in the public system, mainly in the Northeastern (291%) and in the Northern states (161%) (Inep School Census 2006).

### 1.5 Higher Education

244. In the context of the Education Development Plan, the Program of Support for the Restructuring and Expansion of Federal Universities (Reuni) aims at expanding the system reducing dropout rates in higher education. Reuni seeks to improve the indicators within federal institutions of higher education, since only 11% of young people between 18 and 24 have access to this educational level.

245. From 1988 to 2004, nonprofit institutions of higher education, which are responsible for 85% of enrollments in the private sector, enjoyed tax exemptions without any regulation from the government. Starting in 2004, the Prouni program established that institutions benefitting from tax exemptions must grant study scholarships as a proportion of paying students. There are two kinds of scholarship – full or partial – and beneficiaries must be selected by the National Secondary Education Exam.

246. Approximately three hundred thousand scholarships have been granted, 40% of them to people of African descent and indigenous people, including in high demand courses such as medicine, law, engineering and dentistry. About sixty thousand scholarship holders attend courses in various areas, and teachers in public basic education service have privileged access to the program.

### 1.6 Illiteracy

247. Illiteracy rate in the age bracket from 15 to 29 is 3% in the Midwest, South, Southeast and North, whereas it reaches 13% in the Northeast. About 30% of the illiterate population over 15 lives in the Northeast. Illiteracy in Brazil can be found both in rural (26%) and urban areas (8%). The illiteracy rate among black people is 16%, compared with 7% among whites. The Northeast has the worst rates of absolute illiteracy: 22% of the population. Black and mixed-race people present the highest rates of functional illiteracy.<sup>23</sup>

248. Although the Federal Constitution and the Education Law (“Lei de Diretrizes e Bases da Educação”, which regulates formal education in Brazil) ensure the right to basic education to all who did not have access at the appropriate age, the effort to provide schooling to people outside the age of 7-14 years is far from being completed. Data from the 2006 School Census reveals that the number of students in education for young people and adults – EJA – (destined to those who did not have access to basic and secondary education at the appropriated age) is similar to the previous census, with an increase of only 882 enrollments. Approximately 69% of enrollments in EJA are in elementary school, and approximately 31% in middle school (Tables 25 and 26).

## B. Right to rest, leisure, play, recreational activities, cultural life and arts

249. The “Escola Aberta” Program was launched in 2004, aiming to provide public schools and their communities with alternative spaces on weekends for the development of cultural activities, leisure, income generation, citizenship training and other complementary activities to those of formal education, as well as sports. It consists on opening for the whole community basic and secondary public schools located in urban regions affected by violence and social vulnerability during the weekends. The program, among its purposes, also seeks to contribute to improving quality of education, promoting social inclusion and building a culture of peace. In 2006, the Program reached 1,258 schools in all five Brazilian regions and is used by about two million people from school communities every month.

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<sup>23</sup> IBGE considers as a functional illiterate someone who has not concluded four school years.



## **VIII. Special protection measures**

### **A. Children in vulnerable situations**

#### **1. Refugee children**

250. As presented in its first report, Brazil is committed to guaranteeing refugees the same treatment given to nationals in respect to basic education, respect to minimum age of employment, apprenticeship and professional training. The National Committee for Refugees, a collegiate body that gathers representatives from the government, civil society and the United Nations, performs several actions to assist refugees: (a) it analyzes the request of recognition of refugee status; (b) it deliberates about the termination of the refugee status, “ex officio” or upon request of competent authorities; (c) it announces the loss of refugee status; (d) it guides and coordinates actions necessary for protection, assistance, local integration and juridical support to refugees; (e) it approves normative instructions which enable implementation of Law 9,474/97 on the Status of Refugees.

#### **2. Children in armed conflicts**

251. Brazil signed in 2002, and ratified in 2004, the Optional Protocol to the Convention on the Rights the Child on the involvement of children in armed conflict.

### **B. Adolescents in conflict with the law**

**In paragraph 69, the Committee recommended continuing efforts to improve the system of juvenile justice in all states of the federation in line with the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Guidelines for Action on Children in the Criminal Justice System.**

**As part of this process, the Committee particularly recommended that Brazil:**

- (a) Fully implement the relevant rules of the statute concerning juvenile justice, including the socio-educative measures in all the territory of the State party;**
- (b) Provide the means and encouragement so that persons under 18 in conflict with the law be handled, as far as possible, without resorting to judicial proceedings;**
- (c) Consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time, limit by law the length of pre-trial detention and ensure that the lawfulness of this detention is reviewed by a judge without delay and regularly;**
- (d) Provide persons under 18 with legal or other assistance at an early stage of judicial proceedings;**
- (e) Protect the rights of persons under 18 deprived of their liberty and improve their conditions of detention and imprisonment, notably by establishing special institutions for persons under 18 with conditions suitable to their age and**

needs and by ensuring the accessibility to social services in particular health care and education, in all detention centres in the State party; and in the meantime by guaranteeing separation from adults in all prisons and in pre-trial detention places all over the country;

(f) Investigate, prosecute and punish any case of mistreatment committed by law enforcement personnel, including prisons guards, and establish an independent, child-sensitive and accessible system for receiving and dealing with complaints;

(g) Ensure that children remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;

(h) Introduce regular medical examination of persons under 18 who are deprived of their liberty by independent medical staff;

(i) Introduce training programmes on relevant international standards for all professionals involved in the system of juvenile justice;

(j) Make every effort to establish a programme of recovery and social rehabilitation of juveniles following judicial proceedings;

(k) Take into consideration the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238);

(l) Request technical assistance in the area of juvenile justice and police training from, among others, the Office of the United Nations High Commissioner for Human Rights, UNICEF and the Inter-American Children's Institute.

252. Brazil has improved policies regarding adolescents in conflict with the law. The creation of Sinase in 2006 is a great progress. It was the result of an extensive national debate, involving various segments of the System for the Guarantee of Rights of Children and Adolescents, and of debates and deliberations of the Seventh National Conference of the Rights of the Child and Adolescent in 2007.

253. Sinase established a series of pedagogical and architectural standards regarding the treatment of adolescents during the implementation of social-educational measures. It stated that adolescents in conflict with the law should have the opportunity to reevaluate the causes of their offense and its consequences to themselves and to society. In addition to proper accountability, it aims to ensure respect for their basic rights to health, education, social assistance, professional training, culture, entertainment and sports.

254. The social-educational policy must be implemented in a decentralized manner and in co-responsibility between different levels of government. Since 2003, SDH/SNPDCA has supported, by means of partnerships, the drafting of municipal projects and decentralization in 23 States for the execution of social-educational measures in an open environment. Since 2005, bi-annual gatherings bring together state, district and federal managers in order to plan common actions.

255. New measures have been introduced to improve quality of treatment of adolescents, such as the Individual Care Plan, including assistance to their families. As regards health care of adolescents, in 2004, measures were established to guarantee basic assistance, in addition to hospitalization and specialized tests. There was also support from the Federal government to projects of professionalization and promotion of sports and cultural activities

in 12 states, and also support to reintegration of former inmates in four states. The priority in the granting of Bolsa Família and Bolsa Agente Jovem stipends to adolescents serving social-educational measures was envisaged by the Unified System of Social Assistance.

256. The “Na medida certa” Project, launched in 2007, envisaged actions for the establishment of multimedia classrooms and libraries in schools, initiatives of accelerated schooling and professional training, development of economic cooperatives, and also implementation of cultural and sports programs in all internment units in 11 states.

257. As regards the provision of legal assistance, Public Defense Offices have been created throughout the national territory, although the number of public defenders is still very small. SDH/Conanda has been providing since 2007 a line of financing for Public Defense Offices and centers of legal defense to increase the offer of legal assistance to adolescents in social-educational measures. These resources are currently used by 12 states. A noteworthy step was the establishment, in 2006, of pilot projects of Restorative Justice in two states and the Federal District.

258. Centers of Integrated Assistance (NAI) are also being created, with an impact on the national level, despite small numbers. Both their architecture and their pedagogical program implement article 88 of ECA, which states that health care policy should be integrated to speed up initial care to adolescents in conflict with the law. They offer basic accommodation and care from the moment of arrest until the completion of corrective measures. Until 2007, NAIs were created in São Paulo, Bahia, Rio Grande do Norte and Goiás.

259. Despite numerous efforts of public defenders, prosecutors, judges and organized civil society regarding the investigation of abuse against adolescents deprived of their liberty, there are difficulties in collecting evidence of crimes of torture. Several measures have been set out by Sinase for the prevention of abuse and torture, such as: ensuring regular contact of the adolescent with his family; the requirement for small internment facilities (with a maximum capacity of 40 interns and rooms for up to three adolescents); the prohibition of the use of solitary confinement; the mandatory approval of the Disciplinary Regiment by the Municipal Councils for the Rights of the Child and Adolescent; and the establishment of Internal Affairs Divisions. In 2006-2007, new units of internment in 16 states are expected with new architectonic standards, which seek to overcome the situation of overcrowding and poor sanitary conditions, associated with institutional violence. In 2007, a survey indicated that about 74% of the units were in line with the standards of physical structure indicated by Sinase.

260. Additionally, a review of the current information system (Sipia) will allow access to online information about the profile of the adolescent and the control of data about workflow of the treatment in the internment facility, allowing the evaluation of quality of programs and situations of higher vulnerability. Continuing education of staff and operators of the Justice System has been prioritized to change the prison culture in the social-educational system.

## **C. Economic exploitation**

### **1. Child labour**

**In paragraph 61, the Committee welcomed the Program of Eradication of Child Labour (PETI) and recommended (a) strengthening the PETI by supporting income-generating initiatives for the families of children attended by the programme; (b) improving the labour inspection system and in particular empower it to monitor**

**and report on the practice of domestic labour by children; (c) providing former child workers with appropriate recovery and educational opportunities.**

261. The Federal Constitution, ECA and the Labor Code (CLT) protect children against economic exploitation, including child labor. In addition, Law 8,666/93 forbids the government to hire private entities that exploit child labor, and Law 9,977/98 increases punishment for the crimes of frustration of a guaranteed right by means of fraud or violence and recruitment of workers with the objective of taking them from one location to another in the national territory in case the victim is under 18.

262. In 2004, the National Plan for the Prevention and Eradication of Child Labor and the Protection of Adolescent Workers was approved, and in 2005, the Bolsa Familia Program and the Program of Eradication of Child Labor (PETI) were integrated. Currently, the beneficiary families of the Peti and families with children and adolescents at work are included in the Unified Registry.

263. Several Brazilian socio-cultural factors may contribute to the occurrence of child labor, such as low family income associated with high levels of unemployment, as well as a view of early participation in work as a fundamental principle for the formation of the individual.

264. Several actions are being implemented against child labor: prolonging the school day; introducing complementary activities to the school schedule; inspection for the eradication of child labor; upgrading the focus map of child labor; supervision of work conditions of adolescents as apprentices; fostering of the first job opportunity; inclusion and permanence of children and adolescents at school; integration of their families in cash transfer and income generation programs.

265. Other initiatives have been launched, such as qualitative studies, the production of graphical and audiovisual material on child domestic labor and in agriculture, the identification of successful experiences, the construction of a methodology of intervention, the development of new instruments for controlling conditions in the concession of social benefits. The following results were achieved: joint construction of methodology and theoretical standards in the Guidelines of Basic Social Protection and Special Social Protection – PSE, referenced by age group; construction of an integrated initiative for full-time schooling. In June of 2007, the campaign “With child labor, childhood disappears” was launched. It reflects the reality of working children and adolescents in the countryside, in city streets and in domestic labor. In addition, the same year, a review of the National Plan for Eradication of Child Labor was initiated by the National Commission for the Eradication of Child Labor (Conaeti).

266. Surveys carried out by Pnad indicate that, in 2002, 3,464,000 children and adolescents aged between 5 and 15 were economically active. Two years later, the total for the same age group was 2,952,000 individuals, which means a decrease of 512,000 in that age group. In 2007, the data shows a decrease in the employment of children and adolescents from 5 to 17, from 12.2% in 2005 to 11.5% in 2006. There were decreases in the number of employed children in all age groups analyzed. The Program to Eradicate Child Labor (PETI) currently serves about 1.000.000 children and adolescents in the age group under 16, in 3,296 municipalities. According to a study released by the ILO, it is estimated that, in 2015, Brazil will have about 2.7 million working children between 10 and 17, well below the existing 4.6 million in 2003.

## **2. Adolescent Labor**

267. Brazilian Constitution allows the work of adolescents aged 16-17 years lest it is not nocturnal, dangerous or unhealthy. Data from the Pnad indicates that 2.4 million adolescents – 17% of the total – actually worked and 778,700 were unemployed. There was

a reduction in the number of employed between 2002 and 2004 of the order of 37.5 thousand adolescents. The percentage of adolescents between 16-17 who combine study and work is 31%. These adolescents were mostly employed in the informal sector of economy (69%), many of them receiving no remuneration (30%). About 34% worked in farming activities, while 22% worked in the trade and repair sector.

268. The supervision of adolescent labor is part of the National Program of Incentive to the First Job. In 2006, the execution of the initiative surpassed the goal set forth in the PPA, of 20,000 adolescents. Labor supervision managed to include 44,049 thousand adolescents from 14 to 24 years<sup>24</sup> in the job market and to regularize the employment situation of 2,831 million adolescents of legal working age.<sup>25</sup> The result of hiring apprentices under fiscal incentives showed a strong growth trend from 2001 to 2006 (Table 27).

### 3. Substance abuse

**The Committee recommended completing a study in order to better define the root causes and extent of the increase of use of psychotropic drugs by students in schools, so as to take efficient measures to prevent and combat it.**

269. The National Anti-Drug Secretariat (Senad) is responsible for the articulation and coordination of the national policy on drugs. Senad has undertaken continued efforts to produce knowledge and information on the situation of drug use by the various groups in order to better support the implementation of public policies for prevention, treatment and social inclusion. Its most recent study was launched in 2004,<sup>26</sup> with the following results: the lifetime use of drugs (except alcohol and tobacco) remained unchanged; the decrease in tobacco use was not as significant as in alcohol consumption; alcohol use decreased; and marijuana use increased.<sup>27</sup>

270. A number of initiatives have been carried out to reduce consumption and to increase attention to those children and adolescents who already present some involvement with drugs. Several preventive actions, such as training of teachers, municipal councilors, community health workers and staff of the welfare network stand out. Several community initiatives with adolescents and young adults have been supported. The specialized network, such as the Centers for Psychosocial Alcohol and Drug Rehabilitation and Psychosocial Care Centers for Children and Adolescents was also expanded.

<sup>24</sup> Law 11.118/05 modified CLT when determining the extension of the maximum age of young people who can benefit from the institute of learning, from 18 to 24 years old.

<sup>25</sup> The initiative regarding the regularization of the job situation is intended exclusively for youngsters aged 16 to 18.

<sup>26</sup> "V National Survey About Psychotropic Drug Use among Students of Basic and Secondary Education of Public Education Systems in the 27 Brazilian Capitals", produced in partnership with the Brazilian Center of Drug Information and the Federal University of São Paulo. The report is available in the portal of the Brazilian Observatory for Information on Drugs (Obid).

<sup>27</sup> The Interamerican Observatory on Drugs (OID) of the Interamerican Commission for Control of Drug Abuse (Cicad) and the Office of the United Nations Against Drugs and Crime (Unodoc) based on Peru published the study "Youth and Drugs in South American Countries: a Challenge for Public Policies" in 2005. It is a comparative study on drug use by the school population of Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay. It demonstrated that although it is not observed in Brazil a significant increase in the use of drugs among students, the data relative to the consumption of alcohol, inhalants and cocaine by this population and the early age of initiation in the use of different psychoactive substances is worrying, as well as the diffusion of the use of crack among children and teenagers, even in within the country and in different social layers.

271. These efforts enabled the formation and articulation of a broad safety net. Some of the results of these initiatives are (a) courses for educators: from 2005 to 2007, 25,000 teachers from public schools were trained, to the development of programs to prevent the use of drugs and vulnerable behaviors in the school context; (b) training of Municipal Councilors: in the period, fifteen thousand community counselors were trained in the areas of security, guardianship, rights of children, education, health and social care, and 45 thousand will be trained in the next four years; (c) the “Turma da Mônica e Ronaldinho Gaúcho na Prevenção do Uso de Drogas” Project: the goal is to emphasize the value of life through a methodology and a specific didactic material, portraying cartoon characters familiar to this segment, and also involving educators and parents, who receive up-to-date information on the prevention of drug use in school and within the family; (d) the production and distribution of materials in brochures that provide orientation to the general public about the prevention of drug use, treatment and social rehabilitation of the user and addict. The most recent booklet in the series is entitled “Drugs – inside the subject”; (e) the Information and Orientation Service about Drugs, “Viva Voz”: a free phone line, of nationwide reach, destined to users and drug addicts, families, educators and the general public. It provides techniques of counseling and intervention, besides information about the care network.

#### 4. Sexual exploitation and sexual abuse

**In paragraph 63, the Committee recommended (a) encouraging and facilitating the reporting on incidents of sexual exploitation, investigate, prosecute and impose appropriate sanctions on any perpetrator of the alleged violations; (b) providing protection to victims of sexual exploitation and trafficking, especially prevention, social reintegration, access to health care and psychological assistance in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and with neighboring countries; and (c) follow-up on the recommendation made by the Special Rapporteur that specialized criminal courts for child victims of crimes, together with specialized units of the public prosecutor’s and specialized police precincts for the protection of children and adolescents should be established.**

272. “Disque 100” adopted new workflows to improve the reporting system against sexual exploitation. Most of the reports are forwarded to organizations for the defense of human rights and to the Federal and State Prosecutor’s Offices, to Child Protection Councils, to Civil and Specialized Police Offices, ReDesap (Network of Location and Investigation of Missing Children and Adolescents), the Federal Police, Federal, State and Military Highway Polices and Centers for the Defense of Children and Adolescents (Frames 10, 11 and 12). Data on Table 28 show the total register by category and type of violence (within categories) in the 44,097 denunciations categorized (records from 2003 to 2007) and the total records of the types of violence. By analyzing it, it must be taken into consideration that the number of reports will be different from the total records of the types of violence.

273. The Inter-Sector Committee for Confronting Sexual Violence against Children and Adolescents was created in 2003 as an integrative strategy of programs at the federal level. It is composed of representatives of the State, as well as the Prosecutors, Conanda, National Committee, international and civil society organizations. It resulted in the elaboration of the National Plan for Confronting Sexual Violence. Related to it, the National Plan for Combating Trafficking of Persons is being implemented since 2007. It intends to prevent and suppress the trafficking in persons, to hold perpetrators accountable, and provide assistance to victims.

274. Among the preventive actions to combat sexual exploitation of children and adolescents, there are initiatives of the Federal Government as well as of various segments of civil society and private sector in developing awareness and sensitization campaigns. Another strategy towards prevention was the creation of the Sustainable Tourism and Childhood Program, in charge of the Ministry of Tourism, aimed at combating sexual exploitation. It is worth mentioning the elaboration of the school guide “Methods for Identifying Signs of Abuse and Sexual Exploitation of Children and Adolescents”, published in 2003. This guide was conceived to advise members of school community about sexual abuse and exploitation.

275. Furthermore, the Inter-Sectorial Committee, with financial and technical support from UNICEF, and consultancy of the Research Group of the University of Brasília – VIOLES, created a referential set of indicators that maps the phenomenon of sexual violence in Brazil. Based on this set of indicators, the program “Integrated and Referential Actions to Combat Sexual Violence against Children and Adolescents in the Brazilian Territory” (Pair) started to finance projects for the diagnosis and elaboration of local operational plans in the most affected municipalities.

276. In 2004, the Sentinel Program became a service offered by the Reference Centre for Social Assistance, named Service Against Violence, Abuse and Sexual Exploitation of Children and Adolescents, intended for the care of situations of physical, psychological and sexual violence and serious negligence against children and adolescents.

277. Another concern in the assistance to children and adolescents victims of sexual violence is how to guarantee friendly judicial procedures. In this sense, in 2003 projects of Special Testimony started being implemented. They seek to prevent the child or adolescent victim of sexual abuse from having to go through more than one hearing during judicial proceedings. Contact with the defendant and repeated interrogations are avoided in order to protect their psychological well-being. The child or adolescent is heard by a social worker or psychologist in a private room, avoiding confrontation with the defendant and the presence of a defense attorney or the judge himself. Through an electronic device, the professional who accompanies the child can interact with the audience room, performing role of facilitator for the testimony. After obtaining a free narrative from the child of the facts pertinent to the process, in case further clarification is needed, the judge, prosecutor and defense attorney ask questions to the professional, which poses them to the child in a more considerate and coherent form. There is a bill in the National Congress to change the Penal Code and Process, so that children and adolescents victims of sexual abuse are interrogated on the basis of this methodology.

## 5. Street Children and Adolescents

**In paragraph 65, the Committee recommended (a) developing a comprehensive strategy to address the high number of street children, with the aim of reducing and preventing this phenomenon; (b) ensuring that street children are provided with adequate nutrition and shelter as well as with health care and educational opportunities in order to support their full development, and provide them with adequate protection and assistance.**

278. With the implementation of the Unified Welfare System – SUAS, priority has been given to the homeless population and to the financing from the sectorial Fund. This is done by the application of Basic Social Protection and Special Social Protection, which contribute to prevent and reverse the phenomenon of children and adolescents on the street.

279. In order to map this segment better to help with the formulation of public policies, a national survey called, “Counting the Population on the Streets” started in 2007. This first survey, with a focus on the adult population, paved the way to conducting a national survey

on children and adolescents on the streets. The survey is part of the goals established by the Social and Children Agenda, to be achieved until 2011. This mapping is relevant as it is a heterogeneous population, with marked social-cultural differences permeating each subgroup.

#### **D. Children belonging to a minority or to indigenous groups**

**The Committee urged Brazil to pursue measures to effectively address the gap in life opportunities of indigenous children. Training and awareness-raising activities should be provided to break social prejudice, in order to revert the historical logic of colonization, which jeopardizes any chance of attaining genuinely equal treatment.**

**The Committee also recommended taking adequate measures in order to provide protection for the rights of indigenous children, in particular their rights to preserve historical and cultural identity, customs, traditions and languages in accordance with the Constitution, and taking into account the recommendations adopted by the Committee on its day of general discussion on the rights of indigenous children in September 2003.**

280. Brazil has, in 2007, about at least 175,365 indigenous children up to 14, of whom 3,627 are under one year of age. The National Indian Foundation (Funai) of the Ministry of Justice is responsible for systematizing information about the Brazilian indigenous population. In 1999, management of health assistance to indigenous population was reassigned to the National Foundation on Health – FUNASA. Several indicators show that the health situation of Brazilian children is better than the health situation of indigenous children in Brazil (Graph 12). It is possible to conclude that the sub-notification of live births also contributes to the increase of this indicator. The decreasing trend in the indigenous infant mortality rate does not occur in the expected speed, but it is possible to conclude that this improvement is a reflex of the actions implemented by Funasa.<sup>28</sup> Indigenous infants get sick and die from diseases related to unfavorable social, environmental economic conditions, as shown in Graph 13, with the causes of deaths in children under 1 year of age.

281. Regarding health programs, Funasa implemented some priority programs, listed in Frame 13. Funasa published booklets about river blindness in Yanomami language in 1999, booklets on oral health in Guarani language, a booklet about alcoholism in the language Kaingáng in 2005, a booklet about basic childcare in the Xavante language in 2005 and booklets about the prevention of STD/AIDS in the Kadwéu and Terena languages in 2006.

282. There was a great advance in the formulation of public policies for indigenous youth. Representatives from various villages participated in the National Council of Youth, created in 2006, which may contribute to break down barriers and prejudices in relation to this segment of the Brazilian population.

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<sup>28</sup> Funasa implemented some actions for decreasing trend in the indigenous infant mortality rate such as: implementation of special indigenous sanitary districts; continuity and higher periodicity of health actions in the villages; increased vaccination coverage of these populations; environmental sanitation activities; and hiring of indigenous health agents for the villages. Indigenous infants get sick and die from diseases related to unfavorable social, environmental economic conditions.