

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 27th Session

BRAZIL

I. BACKGROUND INFORMATION

Brazil ratified the *1951 Convention relating to the Status of Refugees* in 1960 and its *1967 Protocol* in 1972 (hereinafter jointly referred to as the *1951 Convention*). Moreover, Brazil ratified the *1954 Convention relating to the Status of Stateless Persons* in 1996 and the *1961 Convention on the Reduction of Statelessness* in 2007 (the *1954 Convention* and the *1961 Convention* respectively).

Brazil participated in the drafting of the *1984 Cartagena Declaration on Refugees* (the *1984 Cartagena Declaration*) and, together with 27 other Latin American and Caribbean countries, in December 2014 adopted the *Brazil Declaration and Plan of Action* (hereinafter referred to as the *BPA*)¹ as an important regional framework to strengthen the international protection of refugees, displaced and stateless persons.

The *Refugee Law No. 9.474*,² which has been in effect since 23 July 1997, establishes arrangements for the implementation of the *1951 Convention* and incorporates the wider refugee definition contained in the *1984 Cartagena Declaration*.

Refugees and asylum-seekers:

The total refugee population in Brazil amounts to 9,077 persons. Since 2010, Brazil has experienced an increase of 2,868 per cent in asylum claims, rising from 966 new asylum-seekers in 2010 to 28,670 in 2015. Between 1 January and 30 June 2016, 5,685 asylum claims have been registered by the Government of Brazil (GoB). The main nationalities among the new asylum claims are: Venezuela (1,247), Angola (956), Cuba (809) and Haiti (479). This represents a significant shift in the profile of asylum-seekers compared to the last years. In 2015, for instance, the main nationalities were Senegal, Syria and Angola, while the number of claims submitted by Haitians was considerably higher (13,826 by the end of 2015). The decrease of claims by Haitians is in line with the Office's projections for the coming years, given that Brazil's Ministry of Foreign Affairs has been making efforts to

¹ Regional Refugee Instruments & Related, *Brazil Declaration and Plan of Action*, 3 December 2014, available at: <http://www.refworld.org/docid/5487065b4.html>.

² *Brazil: Law No. 9.474 of 1997, establishing arrangements for the implementation of the 1951 Status of Refugees and related provisions* [Brazil], 23 July 1997, available at: <http://www.refworld.org/docid/3f4dfb134.html>.

provide the majority of Haitian migrants with a visa issued in Port au Prince, as a means to avoid undocumented arrival via smuggling networks.

The most recent disaggregated statistics by gender/age available (from April 2016) indicate that 80.8 per cent of asylum-seekers are male and 19.2 per cent are female. The age composition of asylum-seekers is 95.8 per cent of adults between 18 and 59 years old, 2.6 per cent of children between 0 and 17 years old, and 0.1 per cent of adults over 60 years old. Regarding recognized refugees, 71.8 per cent are male, 28.2 per cent are female and 78.8 per cent are adults between 18 and 59 years old. Likewise, 18 per cent are children between 0 and 17 years old, while 1.8 per cent are over 60 years old.

By the start of 2016, there were 20,815 applications pending analysis. Taking into consideration the 5,685 asylum claims during the first semester, and the 761 cases analysed in the first semester, UNHCR estimates that the backlog now is of 25,739 cases. The GoB has been facing serious challenges in its Refugee Status Determination (RSD) system, as the incoming caseload is much larger than what the National Refugee Committee's (CONARE) structure is able to process.

UNHCR and its partners continue to advocate for the systematic inclusion of refugees in all Government welfare programs implemented at the Municipal, State and Federal levels and especially for the creation of a *National Plan of Local Integration* based on an age, gender and diversity (AGD) approach.

Stateless persons:

Brazil does not host a large stateless population, mainly due to the *jus solis* principle enshrined in the *Constitution*, whereby every person born in Brazil automatically acquires Brazilian nationality. However, Brazil does not have official figures on the number of stateless persons in the country, in part due to the lack of a statelessness determination procedure.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 119.170: “Continue improving the life conditions of migrants and refugees in Brazil (Holy See).”

The GoB has adopted several good practices to enhance protection and integration of refugees and asylum-seekers at the Federal, State and Municipal levels. At State level there are currently six functioning State Committees on Asylum and Migration (SP/PR/RJ/AM/MG/RG), and two States (RJ and PR) have created a State local integration plan. At Municipal level, the city of São Paulo was the first in Brazil to approve a municipal law for the local integration of migrants and refugees.³ Another good practice adopted was

³ The municipal *Bill 16.478* of 2016 establishes a framework for the promotion and respect of the rights of migrants and refugees, setting principles and guidelines for future actions, as well as improving public policies already in place. It institutionalizes the Centre of Reference for Immigrants (CRAI) and grants immigrants the right to vote and be eligible for the Municipal Participatory Council. Thus, refugees and immigrants can be represented in a consultative forum where they can voice their concerns and demands, thereby influencing the

the creation of the Reference Centres for the Reception of Migrants and Refugees (CRAI Network) in seven of the main cities of Brazil.⁴ Moreover, there were considerable advances in the framework of the “*Cities of Solidarity*” Programme, which aims to engage municipal governments in local integration efforts for refugees and counts on the active participation of São Paulo, Porto Alegre and Curitiba in the regional conversations aimed at producing basic standards for entry in the programme.

Furthermore, other good practices adopted by the GoB consist in:

- Gratuity in the issuance of Refugee Identity Cards;
- Extension of the expiration date of the ID card from two to five years;
- Decentralization of the issuing of work permits for asylum-seekers and refugees;
- Refugees and asylum-seekers’ access to governmental social programmes such as “*Minha Casa Minha Vida*” (a programme that facilitates conditions to purchase a house) and “*Bolsa Família*” (a programme that provides monthly financial assistance for persons in situation of extreme poverty);
- Facilitation of the revalidation of diplomas and certificates obtained abroad through *Resolution No. 03* of the National Council of Education;
- PRONATEC (the National Program for Access to Technical Education and Employment of the GoB that provides free vocational courses)
- Portuguese classes for migrants at the municipal level in São Paulo;
- Entrepreneurship Courses offered to refugees and asylum-seekers in São Paulo, in partnership with the Brazilian Micro and Small Business Support Service (SEBRAE);
- Reduction of the time necessary to obtain the permanent residence documentation.

Linked to 2nd cycle UPR recommendation no. 119.56: “Take into consideration the provisions of HRC resolution A/HRC/RES/13/27 relating to sport and racism, when preparing and organizing the 2014 football World Cup and the 2016 Olympic Games, in order to promote understanding, tolerance and peace and strengthen the efforts in the struggle against racism, racial discrimination, xenophobia and related intolerance (Morocco).”

Brazil, as the host of the 2016 Olympic Games of Rio de Janeiro, supported the International Olympic Committee (IOC) initiative to create the first Refugee Team of the games’ history. In the 2016 games, 10 refugee athletes competed under the IOC flag. Moreover, joint efforts between the GoB, the IOC and UNHCR have ensured that refugees carried the Olympic torch in Brazil, drawing international attention and positive media coverage to the refugee cause.

Linked to 2nd cycle UPR recommendation no. 119.98: “Strengthen domestic cooperation between relevant actors, as well as international cooperation, in order to combat both internal and international trafficking and sexual exploitation of women and children (Sweden);”

In 2011, the GoB launched the *II National Plan for Combatting Human Trafficking* covering the period of 2013-2016.⁵ The *Plan* was developed in the framework of the 2006 *National*

process of policy-making. The Bill’s full text is available at: http://www.prefeitura.sp.gov.br/cidade/secretarias/upload/direitos_humanos/Policy%20for%20Immigrants.pdf.

⁴ As of July 2016, only the CRAI in São Paulo was functioning, but agreements between the three federative levels of Government have been signed in Florianópolis and Porto Alegre.

⁵ *II National Plan for Combatting Human Trafficking*, available in Portuguese at: https://www.unodc.org/documents/lpo-brazil/noticias/2013/04/2013-04-08_Folder_IIPNETP_Final.pdf.

Policy against Human Trafficking and have actions in the three axis of the policy: Prevention, Repression and Liability and Support to the victims. Furthermore, in 2013, the *Presidential Decree No. 7.901/2013*⁶ established the creation of the Trifold Coordination of the *National Policy against Human Trafficking* and the National Committee against Human Trafficking (CONATRAP), which is located within the Ministry of Justice. As a result of the abovementioned good practices at the national level, service stations were created to offer assistance to victims of trafficking in 18 of the 27 Brazilian States. This practice allows the GoB to have an improved coverage of its efforts to prevent and combat trafficking in persons.

Linked to 2nd cycle UPR recommendation no. 119.129: “Regularly foster awareness on birth registration at national and local levels, particularly through the organization of public campaigns to highlight the importance of birth-registration (Uruguay).”

The number of children not registered at birth fell from 18.8 per cent in 2003 to 5.1 per cent in 2013, according to the Brazilian Institute of Geography and Statistics (IBGE). The data indicates a significant advance in coverage of the civil registration of births. The country is close to the elimination of civil underreporting of birth.⁷

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Promotion of refugees and asylum-seekers’ local integration and improved living conditions

Linked to 2nd cycle UPR recommendation no. 119.170: “Continue improving the life conditions of migrants and refugees in Brazil (Holy See).”

Although CONARE has traditionally been more engaged with the eligibility analysis of asylum claims, its mission also encompasses the formulation of policies for the integration of refugees and asylum-seekers. In this regard, the adoption of a *National Plan of Local Integration* would represent a fundamental step towards further engagement of CONARE with this kind of durable solution. Moreover, it is important to continue fostering deeper engagement between Federal, State and Municipal governments, in order to provide refugees and asylum-seekers with an enhanced protection framework. Similarly, the definition of criteria for recognition of municipalities as “Cities of Solidarity” is currently under discussion. Finally, it has been identified that, although refugees and asylum-seekers have

⁶ Brazil, *Presidential Decree No. 7.901/2013* [Brazil], 4 February 2013, available in Portuguese at: http://www.planalto.gov.br/ccivil_03/ Ato2011-2014/2013/Decreto/D7901.htm#art10.

⁷ In recent years, the federal government, in partnership with states, municipalities and civil society, has developed a number of actions to eradicate civil underreporting of births in the country. Public policies to combat underreporting are accompanied by the National Management Committee, established in 2007 in order to promote coordination of agencies and entities involved in the implementation of programs related to the expansion of access to basic civil documentation. Among the actions taken are the gratuity of the first copy of the records of births, conducting joint efforts, national and traveling and river services campaigns, installation of posts of notary offices in maternity wards and the creation of the national commitment to eradicate births underreporting and expanding access to basic civil documentation. More information available at: <http://www.sdh.gov.br/noticias/2015/dezembro/brasil-erradica-sub-registro-civil-de-nascimento>.

access to most public policies, they face administrative barriers when trying to obtain social security/assistance, such as the Continuous Financial Benefit (BPC).⁸

Recommendations:

UNHCR recommends that the Government of Brazil:

- a) Create a *National Plan of Local Integration* through an age, gender and diversity (AGD) approach;
- b) Continue to foster the engagement at Federal, State and Municipal level through the creation of more State and Municipal committees on Asylum and Migration and local integration plans;
- c) Promote the “Cities of Solidarity” agenda under the framework of the Brazil Declaration and Plan of Action with municipalities; and
- d) Remove legal and practical obstacles for the enjoyment of public programmes and services by refugees and asylum-seekers.

Issue 2: Strengthening of efforts and cooperation to combat trafficking in persons

Linked to 2nd cycle UPR recommendation no. 119.98: “Strengthen domestic cooperation between relevant actors, as well as international cooperation, in order to combat both internal and international trafficking and sexual exploitation of women and children (Sweden).”

The number of reports on trafficking in persons cases increased by 865 per cent between 2011 and 2013, according to reports of the Ministry of Justice, indicating an increased awareness of this crime.⁹ Despite this positive development, on 30 October 2015 the Committee on the Rights of the Child, in its *Concluding Observations*, noted that it was “deeply concerned about the trafficking in children, particularly girls, for the purposes of sexual exploitation and forced labour.”¹⁰

It is not uncommon that victims of trafficking claim asylum upon arrival in Brazil. There are also cases which fall outside the scope of refugee protection, but in which the Eligibility Officers identify potential vulnerabilities due to trafficking. In this sense, UNHCR has been providing technical support to CONARE in order to design and establish a referral mechanism between CONARE and CONATRAP. Nonetheless, there is currently no referral mechanism between CONARE and CONATRAP, while refugees and asylum-seekers are particularly at risk of falling victim to trafficking or smuggling due to the vulnerable and volatile situations they often face. Such mechanism would be important for CONARE to refer asylum-seekers at risk of being trafficked or smuggled to CONATRAP, in case victims of trafficking are identified during RSD interviews.

Recommendations:

UNHCR recommends that the Government of Brazil:

⁸ BPC is a social assistance benefit corresponding to a minimum wage for the elderly or persons with disabilities. The Brazilian Social Assistance legislation states that people of the age of 65 years old or more, or alternatively persons of any age with special needs that can prove to have a per capita monthly income lower than a quarter of the minimum wage, are entitled to receive this BPC benefit. Nevertheless, decrees regulating the policy require proof of Brazilian nationality in order to receive the benefit.

⁹ See: <http://www.ebc.com.br/cidadania/2015/07/brasil-teve-254-vitimas-de-traffic-de-pessoas-em-2013>.

¹⁰ Committee on the Rights of the Child, *Concluding Observations on Brazil*, 70th Session, (30 October 2015), CRC/C/BRA/CO/2-4, para. 85, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/BRA/CO/2-4&Lang=En.

- a) Establish appropriate mechanisms aimed at early identification, referral, assistance and support for refugees and asylum-seekers, especially women and children, who are victims of trafficking; and
- b) Create a referral mechanism between CONARE and CONATRAP, in order to ensure the implementation of a coordinated and effective protection strategy for refugees and asylum-seekers victims of trafficking.

Additional protection challenges

Issue 3: Strengthening of the national asylum system

The exponential increase in the number of asylum claims that Brazil has experienced between 2010 and 2015 and the deficit of CONARE's RSD human resources have overloaded the national asylum system. Consequently, Brazil's RSD system is currently unable to process the number of asylum claims in a fair and efficient manner.

Even though the GoB has taken measures to overcome the current situation, including by participating in the *Quality Assurance Initiative (QAI) programme* (a regional initiative build upon the *BPA* to help assess and promote improved operating standards in the asylum system), structural problems remain. These include the lack of human resources, of an AGD sensitive case management strategy and of an independent appeal body. This situation jeopardizes due process of law and achievement of international protection standards.

Recommendations:

UNHCR recommends that the Government of Brazil:

- a) Continues to improve the quality and accessibility of RSD procedures by implementing the *QAI programme's* recommendations under the framework of the *Brazil Declaration and Plan of Action (BPA)*;
- b) Create a case management mechanism for the identification of persons with specific needs and establish special procedural guarantees for these persons, such as unaccompanied and separated children, pregnant women, survivors of sexual and gender-based violence (SGBV), elderly, persons with disabilities;
- c) Increase the number of Eligibility Officers of CONARE in order to adequately respond to the new asylum trends;
- d) Guarantee that due process of law standards are observed throughout the RSD process; and
- e) Create an independent body of appeal.

Issue 4: Resettlement of refugees in Brazil

The *Refugee Law No. 9.474* includes resettlement as a durable solution. Since 2002, when the *Brazilian Solidary Resettlement Programme* started,¹¹ UNHCR has been providing technical and financial support to ensure the initial implementation of the programme.¹² However, this

¹¹ Since then, 655 refugees have been resettled under the Brazilian Solidary Resettlement Programme. The majority came from Colombia, although there have also been pilot experiences with extra-continental cases from Afghanistan, Palestine, Syria and Sri Lanka. UNHCR, *A pillar of protection: solidarity resettlement for refugees in Latin America*, 11 June 2012, ISSN 1020-7473, p. 11, available at: <http://www.refworld.org/docid/5142e32e2.html>.

¹² UNHCR, *A pillar of protection: solidarity resettlement for refugees in Latin America*, 11 June 2012, ISSN 1020-7473, p. 1, available at: <http://www.refworld.org/docid/5142e32e2.html>.

will no longer be the case in the future, as “a successful resettlement model [...] needs to ensure involvement and commitment from local communities and governments”.¹³

In face of the global increase in forced displacement due to conflict, and consequently of persons in need of resettlement, Brazil is highly encouraged to dedicate efforts towards the maintenance and expansion of this durable solution to extra-continental refugees.

Recommendations:

UNHCR recommends that the Government of Brazil:

- a) Take full ownership of the *Solidarity Resettlement Programme* in Brazil and ensure its sustainability; and
- b) Expand the *Solidarity Resettlement Programme* to extra-continental cases.

Issue 5: Protection of stateless persons and eradication of statelessness

Brazil is a State party to both the *1954 Convention* and the *1961 Convention on Statelessness*. In light of the “Eradicating Statelessness” Programme of the Brazil Plan of Action, UNHCR has been advocating for the adoption of an effective stateless status determination (SSD) procedure.

Moreover, “it is also in the States’ interests to establish a statelessness determination procedure. Doing so enhances the ability of States to respect their obligations under the 1954 Convention. In countries where statelessness arises among mixed migratory movements, statelessness determination procedures also help governments assess the size and profile of stateless populations in their territory and thus determine the government services required. In addition, the identification of statelessness can help prevent statelessness by revealing the root causes and new trends in statelessness.”¹⁴

The draft migration law 2516/2015¹⁵ includes the provision of a SSD procedure, as well as the facilitation of naturalization for stateless persons. However, its approval remains pending and it is currently under debate at the Brazilian Senate.

Recommendations:

UNHCR recommends that the Government of Brazil:

- a) Strengthen its efforts to identify and protect stateless persons in the country, including by adopting a *National Law for the Protection of Stateless Persons* that clearly establishes a statelessness determination procedure.

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September 2016

¹³ UNHCR, *A pillar of protection: solidarity resettlement for refugees in Latin America*, 11 June 2012, ISSN 1020-7473, p. 14, available at: <http://www.refworld.org/docid/5142e32e2.html>.

¹⁴ UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, para. 10, available at: <http://www.refworld.org/docid/53b676aa4.html>.

¹⁵ See: <http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=1594910>.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BRAZIL

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Brazil.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ¹⁶	Recommending State/s	Position ¹⁷
Migrant workers		
119.7. Consider becoming a State party and ratify the International Convention for the Protection of the Rights of All Migrant Workers and their Families to protect the human rights of these migrant workers;	Philippines	Supported
119.8. Consider ratifying the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;	Chile	Supported
Discrimination		
119.51. Continue combating inequalities in access to employment and in working conditions based on gender and race as noted by CESCR;	Turkey	Supported
119.56. Take into consideration the provisions of HRC resolution A/HRC/RES/13/27 relating to sport and racism, when preparing and organizing the 2014 football World Cup and the 2016 Olympic Games, in order to promote understanding, tolerance and peace and strengthen the efforts in the struggle against racism, racial discrimination, xenophobia and related intolerance;	Morocco	Supported
Sexual and gender-based violence		
119.92. Continue fighting violence against women;	Senegal	
119.93. Continue its efforts to implement policies to enhance the protection of women against violence;	Singapore	
119.94. Take effective steps to ensure gender equality and counteract	Uzbekistan	

¹⁶ All recommendations made to Brazil during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Brazil" (9 July 2012), A/HRC/21/11, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BRSession13.aspx>.

¹⁷ Brazil's views and replies can be found in: *Addendum* (13 September 2012), A/HRC/21/11/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BRSession13.aspx>.

violence against women;		
Violence based on SOGI		
119.97. Take measures to address homo and trans-phobic crime, including by establishing a system for recording such crimes;	Finland	Supported
Trafficking and sexual exploitation		
119.98. Strengthen domestic cooperation between relevant actors, as well as international cooperation, in order to combat both internal and international trafficking and sexual exploitation of women and children;	Sweden	Supported
119.99. Adopt and implement, in accordance with relevant international law, national legislation to combat trafficking in women and children which will prosecute and convict traffickers, and take effective measures to prevent sexual tourism;	Switzerland	Supported
119.100. Step up prosecutions of individuals who traffic in persons and increase funding for specialized services, including shelters, for trafficking victims;	United States	Supported
119.101. Combat human trafficking, “death squads”, violence and related sexual exploitation;	Holy See	Supported
119.102. Adopt more comprehensive legislation to combat trafficking in persons;	Iraq	Supported
Birth registration		
119.128. Study the possibility of having campaigns for registering girls, boys and adolescents in the North and North-east of Brazil, with the cooperation of the universal system of human rights;	Uruguay	Supported
119.129. Regularly foster awareness on birth registration at national and local levels, particularly through the organization of public campaigns to highlight the importance of birth-registration;	Uruguay	Supported
Migrants and Refugees		
119.170. Continue improving the life conditions of migrants and refugees in Brazil.	Holy See	Supported

II. Treaty Bodies

Committee on the Rights of the Child

Concluding Observations, (30 October 2015), [CRC/C/BRA/CO/2-4](#)

Non-discrimination

23. The Committee is concerned about the structural discrimination against indigenous and Afro-Brazilian children, children with disabilities, lesbian, gay, bisexual, transsexual and intersex children, children in street situations, and children living in rural, remote, and

marginalized urban areas, including favelas. The Committee is also seriously concerned that strategies aimed at eliminating discrimination based on gender, sexual orientation and race have been removed from the education plans of several states. Furthermore, it is concerned about the patriarchal attitudes and gender stereotypes that underpin discrimination against girls and women.

24. **The Committee recommends that the State party:**

- (a) **Strengthen its efforts to combat discrimination against and stigmatization and social exclusion of children living in poverty in marginalized urban areas, such as favelas, as well as children in street situations, and Afro-Brazilian and indigenous children and girls;**
- (b) **Enact legislation to prohibit discrimination or the incitement of violence on the basis of sexual orientation and gender identity and continue the Schools without Homophobia project;**
- (c) **Prioritize the elimination of patriarchal attitudes and gender stereotypes, including through educational and awareness-raising programmes.**

Birth registration

31. The Committee welcomes the measures taken to increase birth registration in general. However, the Committee remains particularly concerned at the persistence of low levels of birth registration among indigenous children.

32. **The Committee calls on the State party to continue taking the necessary measures to ensure registration of all children and recommends that the State party:**

- (a) **Further raise awareness about the benefits of birth registration and the availability of birth certificates for free, and improve the accessibility of registration services in the Amazon area, including by establishing additional mobile registration units;**
- (b) **Ensure that registration issued by the National Indian Foundation (FUNAI) has the same legal effects with regard to obtaining social benefits and other documentation as birth registration issued by civil notaries.**

Asylum-seeking and refugee children

77. The Committee notes as positive the efforts of the State party to accept refugees, including from the Syrian Arab Republic. However, the Committee is concerned about the absence of a prioritized registration procedure for asylum cases involving children, which results in cases of unaccompanied children remaining undocumented for long periods of time. The Committee is also concerned about the lack of an overall policy for addressing the rights of migrants, including irregular migrants.

78. **The Committee recommends that the State party adopt special procedures to register unaccompanied children and ensure that the refugee status determination procedures comply with international protection standards for unaccompanied children. In this regard, the Committee recommends that the State party provide unaccompanied children with legal representation and assistance through all stages of this process. The Committee also recommends that the State party expeditiously adopt the Statelessness Bill that it has pending at its legislature and establish a human rights–**

compliant overall framework for ensuring the rights of migrants, including irregular migrants.

Sale, trafficking and abduction

85. The Committee takes note of the Second National Plan to Combat Human Trafficking and the PAIR MERCOSUL initiative with Argentina, Paraguay and Uruguay for combatting human trafficking. However, it is deeply concerned about the trafficking in children, particularly girls, for the purposes of sexual exploitation and forced labour. It is particularly concerned about the high vulnerability of indigenous children to trafficking for the purposes of domestic labour, slave labour and sexual exploitation. It is also concerned about the lack of specialized shelters for victims of child sex trafficking.

86. **In line with the recommendation of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (see A/HRC/15/20/Add.4, para. 118), the Committee recommends that the State party amend its Penal Code with a view to criminalizing all forms of trafficking, including for the purpose of economic exploitation. The Committee also recommends that the State party:**

- (a) Strengthen prevention, including through regional cooperation, recovery programmes, social reintegration programmes and witness protection programmes for child trafficking victims;**
- (b) Establish specialized shelters with adequate human, technical and financial resources;**
- (c) Provide adequate and systematic training to all professional groups concerned, in particular law enforcement personnel;**
- (d) Launch awareness-raising and prevention campaigns targeting, in particular, indigenous children;**
- (e) Provide detailed information on the number of cases of trafficking in children reported to the authorities or relevant agencies as well as on the number of prosecutions, including of law enforcement officials involved in this crime, in its next report to the Committee.**

[Concluding Observations – Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, \(28 October 2015\), CRC/C/OPAC/BRA/CO/1](#)

Measures adopted to protect the rights of child victims

30. While noting the creation in 2015 of a working group on the situation of migrant and unaccompanied children with a view to improving procedures related to documentation and migratory regularization, the Committee remains concerned about the lack of mechanisms for ensuring the early identification of refugee, asylum seeking or migrant children who may have been recruited or used in hostilities abroad. The Committee also regrets the lack of information on the steps taken by the State party to provide for their physical and psychological recovery and rehabilitation and to promote their reintegration into society.

31. **The Committee recommends that the State party:**

- (a) Provide systematic training on the early identification of migrant, refugee and asylum seeking children who may have been recruited into armed conflicts to all professionals working with and/or for children, particularly**

- immigration personnel, law enforcement officers, judges, prosecutors, social workers and medical professionals;
- (b) **Collect comprehensive data on those children disaggregated by age, sex and nationality;**
 - (c) **Take all necessary measures to ensure that those children are provided with physical and psychological recovery and have access to rehabilitation and reintegration programmes. Such measures should include careful assessment of the situation of those children, reinforcement of the legal advisory services available for them and the provision of immediate, culturally responsive, child-sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with the Optional Protocol;**
 - (d) **Seek technical assistance from the United Nations Children’s Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees for the implementation of these recommendations.**

Committee on the Elimination of Discrimination against Women

Concluding Observations, (23 March 2012), [CEDAW/C/BRA/CO/7](#)

Violence against women

18. The Committee appreciates the fact that the Supreme Court issued a ruling on the legal controversies around the constitutionality of the Maria da Penha Law on domestic and family violence against women (Law 11340). However, given the resistance from various sectors of the judiciary to the application of this law as well as the federal and decentralized configuration of the State party, the Committee is concerned about compliance with both the verdicts of the Supreme Court and the Maria da Penha Law by judges at the local level.

It is also concerned about the lack of expertise within the judiciary on domestic and family violence cases. It is further concerned about the lack of accurate and consistent data on violence against women. The Committee also acknowledges the comprehensiveness of the measures contained in the National Pact to Combat Violence against Women aimed at preventing and combating violence against women. However, it is concerned that full implementation of the National Plan might be at stake due to the lack of adequate capacity and financial resources in the areas of education, health and social assistance.

19. The Committee urges the State party to:

- (a) **Provide systematic training to judges, prosecutors and lawyers on women’s rights and violence against women as well as on the Maria da Penha Law and on its constitutionality, as stated in the verdicts of the Supreme Court;**
- (b) **Strengthen its judicial system to ensure that women, in particular disadvantaged groups, have effective access to justice and facilitate women’s access to justice by increasing both the number of courts dealing with domestic and family violence cases and judges with expertise in these;**
- (c) **Improve its system of regular collection and analysis of statistical data aimed at assessing and monitoring the impact of the Maria da Penha Law; and**
- (d) **Provide all entities which participate in the implementation of the National Plan to Combat Violence against Women with substantial human, technical**

and financial resources, including for the establishment of shelters for women victims of violence.

Trafficking and exploitation of prostitution

20. While taking note of the State party initiatives to address trafficking in persons, such as the establishment in March 2011 of a parliamentary inquiry commission (CPI) to investigate the causes and consequences of internal and international trafficking in Brazil and the preparation of a Second National Plan to Combat Human Trafficking, the Committee is concerned at the lack of information about the extent of the phenomenon of trafficking in women and girls. It is also concerned about the lack of a comprehensive and concerted approach to combating trafficking in persons. It regrets that the State party has not yet adopted comprehensive anti-trafficking legislation as recommended by the Committee in its previous concluding observations (CEDAW/C/BRA/CO/6, para. 24). It is particularly concerned at information received stating that women and girls are exploited for the purposes of prostitution and employment in some regions where large development projects are being implemented and about the sexual exploitation of women and girls in tourist zones in the north-east of the country.

21. **The Committee recommends that the State party:**

- (a) Consider adopting a comprehensive law against trafficking in persons, in line with the Palermo Protocol, in order to fully implement article 6 of the Convention, and to ensure that perpetrators are prosecuted and punished and victims adequately protected and assisted, as previously recommended by the Committee (CEDAW/C/BRA/CO/6, para. 24);**
- (b) Take into consideration the results of the Parliamentary Commission of Inquiry to revise and further adopt and implement the Second National Plan to Combat Human Trafficking (2nd II PNETP) and, design and implement within its framework a comprehensive strategy aimed at combating and preventing the exploitation of prostitution and sex tourism in the State party;**
- (c) Establish a unified national mechanism to coordinate efforts towards preventing and combating internal and international trafficking in persons and protecting victims;**
- (d) Provide information and training on how to identify and deal with victims of trafficking and on anti-trafficking provisions in the domestic law to the judiciary, law enforcement officials, border guards and social workers;**
- (e) Ensure systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and on the exploitation of women in prostitution, and conduct comparative studies on trafficking and prostitution and address the root causes of these, in order to eliminate the risk of girls and women falling victim to sexual exploitation and trafficking; and;**
- (f) Strengthen its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and the adoption of joint measures with respect to the prosecution and punishment of traffickers.**

III. Special Procedures

Report of the Special Rapporteur on minority issues

Mission to Brazil (9 February 2016) [A/HRC/31/56/Add.1](#)

Conclusions and recommendations:

95. The Special Rapporteur emphasizes that Brazil has been at the forefront with its poverty reduction efforts and targeted anti-discrimination and affirmative action laws and policies, and urges that these should be continued and further strengthened. However, she observes that, at the current political juncture, there are a number of legal and political challenges to important laws and policies that pose a real risk of undermining the progress made in the field of minority rights. The Special Rapporteur urges that all steps be taken to avoid any regression in these areas, in accordance with due process of law.

Report of the Working Group on Arbitrary Detention

Mission to Brazil (30 June 2014) [A/HRC/27/48/Add.3](#)

Asylum seekers, refugees and migrants

55. Refugee Law No. 9474/97 provides for the granting of asylum or refugee status in accordance with the Convention relating to the Status of Refugees and the Protocol thereto. The Government also provides temporary protection to persons who may not qualify as refugees. Refugee status is granted to approximately 35 per cent of those who apply. The Government affords protection against refoulement.

56. Provisions for the imprisonment of foreigners for reasons of irregular migration, and deportation and extradition procedures, are set out in Law No. 6.815/1980. No detention centres for migrants in an irregular situation or asylum seekers are available. In practice, if a foreigner detained for immigration purposes declares her or his will to apply for political asylum in Brazil, that person is immediately released.

57. CONARE, the National Committee for Refugees, is an interministerial body chaired by the Ministry of Justice that comprises representatives of the Ministries of Foreign Affairs, Education, and Labour and Health, in addition to representatives of the federal police and civil society organizations. The Office of the United Nations High Commissioner for Refugees in Brazil is also a member of the Committee, although without a right to vote; the Federal Public Defender's Office (Defensoria Publica da União) is a consultant member.

58. Brazil is also a party to the Convention on the Reduction of Statelessness and the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession. No procedures for determining statelessness status have, however, been established.

59. National migration laws seem to be outdated, which results in migrants using the asylum process in an attempt to legalize their stay in the country.

60. In 2012, CONARE signed an agreement with the Federal Public Defender's Office to allow public defenders to interview asylum seekers and recognized refugees and to represent them in judicial procedures.

61. In 2010, a new law granted permission to the military forces at State borders to make arrests and to search persons, vehicles, vessels and aircraft. The inability of border agents and migratory authorities to identify persons with international protection needs can lead to the detention of asylum seekers, prevention from entering the territory or return to their country of origin. Refugees may thus be intercepted as illegal migrants, especially in the Amazon region.

Conclusions and recommendations:

146. **The Working Group encourages the Government to ensure that the positive legislative and administrative developments described in the present report are accompanied by effective implementation measures, in strict compliance with international human rights principles and standards.**

147. **The Working Group encourages the Government to continue its efforts to ensure that its institutional and legal frameworks regarding deprivation of liberty conform fully to the human rights standards enshrined in international human rights standards and in its legislation.**

148. **On the basis of its findings, the Working Group recommends that the Government:**

[...]

- (b) **Take appropriate measures to ensure that deprivation of liberty is only used as a measure of last resort and for the shortest possible time;**
- (c) **Ensure that States consider the model of independent special commissions for investigation of police officers in cases of alleged misconduct or ill-treatment;**
- (e) **Ensure that foreign prisoners serve their sentences in their country of origin, so that they are able to enjoy the support of their relatives. The authorities should also make further efforts to reach bilateral transfer agreements with other States similar to those already signed with more than 23 countries;**

[...]

149. **The Working Group reiterates the need to employ measures alternative to detention, as required by international human rights standards, particularly when dealing with minors.**

Report of the Working Group of Experts on People of African Descent

Mission to Brazil (23 September 2014) [A/HRC/27/68/Add.1](#)

Ethnic and demographic situation

10. There is a considerable population of migrants and refugees of African descent living in Brazil, who are at risk of multiple discrimination based both on their African descent and

their immigration status. According to the country's National Committee for Refugees,¹⁸ 65 per cent of asylum seekers in Brazil are from the continent of Africa, including Angolans, Congolese and Liberians.¹⁹ There are also large numbers of Colombian and Haitian refugees, many of whom are Afro-descendants.

Conclusions and recommendations:

108. **The Working Group found that many of the recommendations made in the report of the Special Rapporteur against contemporary forms of racism, racial discrimination, xenophobia and related intolerance were still relevant and valid and should be implemented.²⁰ In addition, the Working Group makes the following recommendations:**

- (a) While there is a strong body of public policy at the federal level the Working Group is concerned that at the State and municipal levels many of the policies have less weight and implementing institutions lack funding and structure. Municipal and State-level organs of the National System for the Promotion of Racial Inequality must be recognized and sufficiently funded so that they are able to carry out their activities effectively. This includes larger teams, more visible and accessible working spaces and improved commitment from other governmental bodies and better coordination to work in partnership on cross-cutting themes;
[...]**
- (d) The law criminalizing racism is a welcome step in the fight against racism against Afro-Brazilians and other marginalized groups. It is important that the law be fully implemented;
[...]**
- (f) Policies to prevent violence against vulnerable members of society particularly Afro-Brazilian women and young people are essential. [...]**

¹⁸ CONARE.

¹⁹ Cited in Daniella Jinkings, "Africanos representam 65% dos refugiados no Brasil", *Agência Brasil* (2010). Available from <http://agenciabrasil.ebc.com.br/noticia/2010-08-25/africanos-representam-65-dos-refugiados-no-brasil>.

²⁰ E/CN.4/2006/16/Add.3, pp. 20–23.

