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NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH PARAGRAPH 15(a)  
OF THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1\*

**Brazil**

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\* The present document was not edited before being sent to the United Nations translation services.

## **1. METHODOLOGY AND CONSULTATIVE PROCESS**

1. The Universal Periodic Review (UPR) Mechanism of the Human Rights Council is an important innovation brought by the reform of the United Nations human rights system. Brazil regards the UPR as a fundamental tool to reduce the selective treatment of human rights in the United Nations, especially to issues related to the human rights situation in specific countries. To that effect, Brazil will make every effort to engage in this exercise in a constructive and transparent mode.

2. The elaboration of this report was a subject of particular interest to the Brazilian Government. It is worth recalling that the implementation of UPR shares a common ground with the Brazilian proposal for elaborating a global human rights report, defended by Brazil in a reiterated manner in the former Human Rights Commission. Brazil expects that the periodic report to be submitted by each Member State of the United Nations will represent not only an instrument of critical analysis of the degree of compliance by that State with its human rights obligations, but also a basis for promoting a constructive dialog and for fostering cooperation with a view to overcoming challenges in that area.

3. This report is the result of a consultative process involving a range of Brazilian Government entities. Their participation in this process provided an opportunity for an interministry reflection on the challenges faced by each entity and on successful experiences that could be shared with the international community<sup>1</sup>. The Special Secretariat for Human Rights of the Presidency of the Republic (SEDH) and the Ministry of Foreign Affairs (MRE) requested the Government entities to provide information about their policies for the promotion and the protection of human rights, offering a comprehensive and cross cutting view of those challenges<sup>2</sup>.

4. Although this report conveys the view of the Brazilian Government about its compliance with its human rights obligations, civil society organizations have also been consulted along the process, in line with the Brazilian stance that UPR should not be an exclusively government-driven mechanism. Consultations were held by means of meetings and the exchange of communication via Internet, in which representatives of civil society and of National Human Rights Councils could give their opinion about the format of the report and its selected topics. Their collaboration has been registered and taken into consideration by government officials. Consultations with civil society included the holding of a public hearing in the Brazilian Senate on February 12, 2008, with the attendance of ten Senators and several members of civil society organizations<sup>3</sup>. The contributions, criticism and suggestions have been equally registered, being partially incorporated to the report.

5. Taking into account its limited number of pages, the first challenge faced in the elaboration of the report was the selection of the topics which would be discussed. The solution, in compliance with the Council guidelines, was to select topics or priorities according to the demands of the civil society. As a result of that, some themes of major importance, such as the environment, the access to justice, the right to basic civil documentation, the rights of elderly people, religious freedom, among others, have not been included in the report. Moreover, the themes discussed in the report do not represent an exhaustive record of the human rights situation in Brazil. The Brazilian Government expects that, during this exercise, the methodology for the elaboration of future reports will be further improved, with a view to strengthening the multilateral treatment of human rights.

## **2. LEGAL AND INSTITUTIONAL BASIS FOR PROMOTION AND PROTECTION OF HUMAN RIGHTS IN BRAZIL**

### **2.1 The Constitution of 1988, the evolution of the internal law and the incorporation of human rights treaties**

6. The Brazilian Constitution was enacted on October 5<sup>th</sup>, 1988, completing the democratic reconstruction initiated in 1985, when arrived at its end a military dictatorship that, for two decades, had violated human rights deliberately. The new Constitution paved the way for the full reemergence of democracy in Brazil. In its very first articles, the Constitution provides that Brazil shall govern its international relations by the principle of the prevalence of human rights. It also recognizes fundamental rights and liberties as the base of the Democratic Rule of Law. One of the main advances of the constitutional text is, in fact, the inclusion of a long list of fundamental rights and the recognition of the diversity of the population segments that live in the Brazilian territory.

7. At the end of the 1980's and mainly during the 1990's, the Brazilian Government ratified the main international instruments for human rights protection<sup>4</sup> and started an intensive process of legislative production on the matter. Such evolution reflects the internal transformations arising from the democratic reconstruction, definitively inserting the theme of human rights in the Brazilian agenda.

8. The approval of a constitutional amendment, in force since 01/01/2005, brought significant changes to the Brazilian Constitution with regard to the protection of human rights. The amendment introduced the faculty of granting constitutional status to international human rights norms, provided that they have been approved in a legislative proceeding by proper majority. In addition, it created in the Brazilian law the possibility of displacing the jurisdictional venue of a lawsuit from the State Justice to the Federal Justice in cases of serious violation of human rights. Such faculty was put in place in order to meet demands of the civil society against impunity, denial of justice and unjustified delays in lawsuits involving human rights violations. Finally, that constitutional amendment expressly recognized the jurisdiction of the International Criminal Court<sup>5</sup>.

### **2.2. Institutional Basis for Human Rights Promotion and Protection**

9. In Brazil, the consolidation of its democratic institutions involved the formulation of State guidelines for the implementation of initiatives related to fundamental rights. It also called for the creation of participatory instruments for the elaboration, monitoring and evaluation of public policies, as well as for the constitution of mechanisms to make those rights enforceable by the Executive, Legislative and Judiciary branches.

10. The national guidelines that orient governmental activities in the human rights area have been firstly established in 1996, the year of elaboration of the I National Human Rights Program (PNDH I), and which was structured around the assurance of civil and political rights. The plan was reviewed and updated in 2002, when PNDH II was launched, incorporating economic, social and cultural rights from the perspective of indivisibility and interdependence contained in the Vienna Declaration and Programme of Action. Both National Human Rights Programs have been built in dialogue with civil society, through seminars and consultations with social stakeholders<sup>6</sup>. In January 2008, the President of the Republic announced the beginning of a wide national process of

discussion, including debates and seminars, in celebration of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights, to update the PNDH, which will arrive at its third edition.

11. The construction of social participative instruments to elaborate, monitor and assess public policies in Brazil occurred in line with the recognition of the participative democracy principle. As a consequence of that, spaces for dialogue and deliberation increased in a way which affected the very functioning of the State. This impact is illustrated by the fact that the Brazilian Government sponsored, between 2003 and 2006, forty national conferences dealing with social issues not contemplated before in a specific manner. The widening space for social dialogue was also reflected on the increased number of National Human Rights Councils – permanent subject-oriented forums in which representatives from civil society movements and organizations and from government entities discuss priorities for the formulation and the overviewing of human rights public policies.

12. Within the Federal Executive Branch, three Special Secretariats with ministerial status, linked to the Presidency of the Republic, were created in 2003, which formulate and execute policies related to human rights: (i) the Special Secretariat for Human Rights; (ii) the Special Secretariat for Policies of Racial Equality Promotion (SEPPIR); and (iii) the Special Secretariat for Women Policies (SPM).

13. Concerning the Federal Legislative Branch, it is worth recalling the creation of the Commission of Human Rights and Minorities (CDHM) of the House of Representatives, in 1995, as well as the Human Rights and Participative Legislation Commission of the Federal Senate, in 2005, with the mandate to ascertain accusations of human rights violations and to discuss legislative proposals related to their respective areas. In the Judiciary Branch, new mechanisms have also been created to ensure the protection of fundamental rights, such as the social control of jurisdictional procedures (as in the case of public hearings) and the adoption of simplified and agile procedural forms. The Court has enlarged the competence of the Public Prosecution Service, the institution in charge of defending the legal order and of protecting collective and non-disposable rights, which has played an increasing role in the protection of fundamental rights since 1988. The institutional advances could also be seen in federate states and municipalities, with an increase in the number of local entities especially created for dealing with human rights issues (special and municipal departments), the institution of human rights commissions in the Legislative Branch and the outstanding role played by the State Public Prosecution Service.

14. Brazil recognizes the importance of creating a system of solid information to guide the planning and to verify the effects of Government policies related to the protection and the promotion of human rights, as well as the degree of compliance with international human rights obligations. It was within this context that the Brazilian Government initiated, in 2007, a discussion with the purpose of creating a National System of Human Rights Indicators. The first national seminar on that subject, held in December 2007, discussed with civil society organizations the basic characteristics of this system. The meeting was attended by representatives from the two main Brazilian official research institutions – the Brazilian Institute of Geography and Statistics (IBGE) and the Institute of Applied Economic Research (IPEA) – and could count on the presence of the High Commissioner of the United Nations for Human Rights, Mrs. Louise Arbour, and of an expert of the Office of the High Commissioner on that subject, Mr. Rajeev Malhotra.

### **2.3 Cooperation with International Mechanisms for Human Rights Protection**

15. The Brazilian commitment to the reform of the United Nations activities in the field of human rights aims to give this subject an institutional priority compatible with its position in the Charter of the United Nations, thus enhancing the effectiveness of the Human Rights Council, created in 2006. The Brazilian State took part in the process which led to the creation of the Council in a constructive manner, aiming at a more effective protection to human rights throughout the world, as well as an universal and non-selective treatment to human rights issues, with an emphasis on authentic dialog and cooperation.

16. Brazil keeps a standing invitation to all special thematic procedures and treaty bodies to visit the country and monitor the compliance with its international human rights obligations. Since 1998, Brazil received the visit of 11 special rapporteurs on 10 different areas, in addition to the Committee Against Torture (CAT)<sup>7</sup>. Furthermore, the State was honored to receive the former High Commissioner of the United Nations for Human Rights, Mrs. Mary Robinson (2002) and, recently, upon being invited by the Brazilian Government, of Mrs. Louise Arbour (2007), thus reinforcing the cooperation with the Office of the High Commissioner.

17. Within the Organization of American States (OAS), Brazil undertakes a transparent dialog with the Inter-American Human Rights System and provides support to the institutional consolidation of its entities. Brazil has made efforts to comply in full with the recommendations and decisions emanating from the System and to disseminate to State entities and the Brazilian society the importance of cooperating to their strengthening. Some challenges must still be faced in that regard, concerning mainly the federative pact, the independence of powers and the lack of laws regulating the way to comply with decisions issued by international human rights courts. In order to fill this gap, a draft bill is in an advanced phase of elaboration.

18. As regards the Southern Common Market (Mercosur), apart from the economic-commercial integration, many other political and social fora started to be part of its agenda. The main instruments on the matter are the Ushuaia Protocol and the Asuncion Protocol. They provide, respectively, for the importance of keeping democratic institutions and the promotion and protection of human rights and fundamental freedoms in Mercosur, and foresee the suspension of the right of a member-state to be part of the economic block in case of rupture of the democratic order or occurrence of serious and systematic violations of human rights<sup>8</sup>. Brazil has actively participated in the main instance of human rights of the block, the Meeting of High Level Authorities in Human Rights and Chancelleries of Mercosur, started in 2004 and that, in March 2008, will hold its 11<sup>th</sup> session. The meeting represents an important forum for coordination of public policies and cooperation for the promotion of human rights in the region. In addition, it is worth to mention the annual holding, since 2006, of the Mercosur Social Summit Meeting, which counts on the attendance of representatives from social movements of member countries of the block in order to identify the main pending points of their social agenda.

### **3. CONQUESTS AND CHALLENGES FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN BRAZIL**

19. In Brazil, the important advances achieved since re-democratization still coexist with persisting and serious violations of rights. Those facts demonstrate that, notwithstanding the countless achievements that expanded the protection of human

rights, many other initiatives and changes are still required from the public powers and also in social life in order to reach the desirable stage of universalization and consolidation of those rights. Despite a stable, dynamic and emerging economy and the implementation of progressive policies of social inclusion, Brazil still displays statistics indicating serious inequality in terms of income distribution. Government policies focusing on the reduction of social-economic disparities still require permanent long-term efforts in order to verify the full compliance with obligations undertaken internationally for the promotion and protection of human rights.

### 3.1 Woman's Rights

20. The Brazilian society was historically organized under the sign of patriarchy. As a constitutive trait of the national formation, its social reproduction was reflected on the constitution of social dynamics, of political institutions, of economic practices and of cultural representations characterized by the perspective of gender inequality. In order to transform this picture, the promotion of women's rights in Brazil has produced, in the last two decades, a necessary approximation between Government and civil society, thus paving the way for changes in the Brazilian legislation and for the formulation of new public policies in that area.

21. Today, the Government activities in that field are coordinated by the Special Secretariat for Women Policies - SPM, created in 2003, with ministerial status and which is oriented by the I National Plan of Policies for Women (PNPM)<sup>9</sup>, currently being updated to incorporate other priorities resulting from the II National Conference of Policies for Women, held in Brasilia, in August 2007. An important measure within the Plan was the enactment, in 2006, of Law 11340/06, known as "Maria da Penha Law", which tackles domestic and family violence against women. Currently, the Brazilian State still has to meet the challenge of promoting a cultural change in the professionals that apply that law, so that it may be universally implemented in the country.

22. Despite the initiatives that have been taken, gender inequality still exists in Brazil and its reduction is slow. In 1995, men with similar characteristics and included in the same labor market segment of women received a remuneration 66.3% higher, a difference that decreased to 56.1% in 2005<sup>10</sup>. Concerning the presence of women in positions of command in private companies, the inequality continues: among the employees of executive level, the percentage was of only 11.5% in 2007 (it was of 10.6% in 2005), much different from the women's participation in the total Brazilian population (51.3%) and in the economically active population (43.5%), thus showing the continuance of a "hierarchical funnel": the higher the position goes, the smaller the presence of women will be<sup>11</sup>. Finally, it is recorded a low participation of women in legislative and executive positions in the three Federative levels – despite having average educational standards higher than those of men, women still occupy less than 9% of the chairs in the House of Representatives and 12% in the Federal Senate<sup>12</sup>.

At the opening of the II CNPM, the **National Pact for Fighting Violence against Women** was launched, in line with the I National Plan of Policies for Women. Unprecedented in the country, the Pact not only granted visibility to the theme of violence against women, but also lent a renewed sense of urgency to the issue amongst state policies.

The Pact's structuring areas are: (a) Consolidation of the **National Policy for Fighting Violence against Women**, including the implementation of Act n. 11340, of August 07, 2006, referred to as "Maria da Penha Act"; (b) promotion of sexual and reproductive rights of women and combat against the feminization of AIDS, as well as other sexually transmissible diseases; (c) Combat against women sexual exploitation and trafficking (d) promotion of the human rights of women serving imprisonment sentences.

### 3.2 Right to racial equality

23. For almost four centuries, Brazil experienced slavery supported by state policies that allowed racial discrimination, especially that against Africans and African-descendants. The long-lasting omission of the State Government in reverting the damage arising from this process consolidated a situation of severe exclusion and allowed the proliferation of racism in Brazilian society. The recurring discrimination suffered by these groups affects, still today, their capacity to the full enjoyment of human rights both civil and political and economic, social and cultural rights.

24. The Brazilian State acknowledges the unfairness of this situation and, in order to overcome it, has been adopting measures to promote equality of opportunities and equality in access to public services, as well as to eliminate racial discrimination and its consequences. One of these measures consists in the introduction of affirmative actions in State policies, such as reserving vacancies for African-descendants and for students from indigenous communities in higher education institutions, notwithstanding the fact that outstanding editorialists of some of the most important communication vehicles among other segments of society often engage in open opposition against these initiatives.

25. In 2003, the Special Secretariat for Policies to Promote Racial Equality – SEPPIR – was created, with a ministerial status, and the National Policy to Promote Racial Equality (PNPIR) was established through Decree No. 4886/03. PNPIR proposes short, medium and long-term actions, based on the implementation of a management model for promoting racial equality, on supporting communities remaining from "quilombos", on affirmative action, on support for development and social inclusion, on the strengthening of international mechanisms of dialogue and cooperation in charge of this issue and on the production of knowledge.

26. Notwithstanding the efforts exerted, racial inequality still exists in the country, and finds one of its expressions in the social exclusion which the men and women, identified by IBGE as black or mulatto, undergo throughout their lives. Within groups with the same level of education, for example, the hourly income of white people is, in average, 40% higher than that of African-descendants. The unemployment rate of the black population is higher than that of the white population (11.8% and 8.6%, respectively) and African-descendants represent 55.4% of people employed in construction work and 57.8% of those performing housework, which is usually ill-remunerated in Brazil<sup>13</sup>. There is a lack of updated data on the proportion of the black population among the total population of prisons. For the sake of illustration, however, it is worthy of note that 66.5% of the prison population in the City of Rio de Janeiro consists of African-descendants<sup>14</sup>.

The remaining communities of "**quilombos**" were formed by African-descendants that resisted slavery and took refuge in the hinterland of the country, generally in isolated and difficult of access regions. In their majority, those communities remained cast away from access to public services and from regular contact with the rest of society, in such wise as to make their social-economic status reflect such exclusion. As a consequence, there is a large demand for public policies, especially those concerning health services, education, local development and land entitlement. In response to such demands, the Brazilian government launched, in 2004, the "**Brasil Quilombola**" Program (PBQ), which guided the action of 18 organs of the Executive Power, always in partnership with civil society.

Since the beginning of the Program, 1170 communities have been certified, 585 land ownership regularization proceedings have been filed and 24 ownership titles have been issued to the benefit of 31 communities. In the aggregate, 3,562 communities remaining from "quilombos" are identified in the Brazilian territory, markedly surpassing the official data available in 2003, which estimated the existence of only 743 communities of this nature. In total, 112 "quilombola" communities have ownership title over their lands.

### **3.3 Right to Food**

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

28. In 2006, the Organic Law for Food and Nutritional Security (LOSAN) was enacted in Brazil. It created the National System of Food and Nutritional Security (SISAN), an institutional mechanism for ensuring the effective realization of the right to food, which is about to be structured. LOSAN defines food and nutritional security as everyone's right to regular and permanent access to good quality food, in sufficient quantity, without compromising the access to other essential needs, founded upon health promoting practices that respect cultural diversity and that are environmentally, culturally, economically and socially sustainable. LOSAN institutionalizes the duty of the public power to respect, protect, promote, provide, inform, monitor, inspect and evaluate the realization of the human right to proper feeding, as well as to guarantee the means for its exactability<sup>15</sup>.

29. In consonance with the facts detected on the occasion of the III National Conference on Food and Nutritional Security, held in 2007, the Brazilian State recognizes, however, that the achievement of full sovereignty and food security depends on special efforts towards strengthening family-based agriculture and agricultural extractivism, and on the implementation of food and nutritional security programs for socially and economically excluded populations (such as collectors of recyclable materials, street dwellers, unsettled indigenous peoples, elderly people, disabled people, population under internment, urban occupation dwellers, among others).

### **3.4 Fight against poverty and social inequality**

30. Showing income concentration levels that include it among the nations with highest social inequality, Brazil has been currently developing new and unified income complementation policies, investments in universal services of health and education, and has been targeting economic growth with social inclusion so as to combat extreme poverty. As a result of these actions, the country has already attained the first of the 8 millennium goals concerning reduction of extreme poverty in 50% until 2025. From 1992 to 2006, extreme poverty was reduced in 58.54%. Similarly, the country successfully reduced the income inequality, breaking a pattern that had long remained unchanged and at very high levels. Extreme poverty fell from 28% to 16% of the population, between 1990 and 2005; poverty decreased from 52% to 38% in the same period<sup>16</sup>. In absolute terms, between 2003 and 2005, about 10 million Brazilian citizens passed above the poverty line and more than 7 million left the status of indigence.



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

### 3.5 Right to land

31. The colonization and populating of Brazil were based on the predominance of large properties of land, resulting in the severe land concentration that characterizes the agricultural landscape of the country. The agrarian reform and the strengthening of the family-based agriculture are imperatives of social justice and social-economic development, which is fundamental for the construction of a sustainable rural development model.

32. Based on such premise, the National Program of Agrarian Reform aims at democratizing access to land, with economic, social and environmental sustainability. The distribution of land ownership is a necessary but not sufficient condition, for the transformation of the current Brazilian agricultural structure. Therefore, besides offering lands and resources for basic infrastructure, the Government makes the right to technical support, credit for installation and production, access to education programs, topographic demarcation of the land plot, support to agro-industrialization and to commercialization, agricultural insurance, among other items, available to settled peasants.

33. The II National Plan of Agrarian Reform (2003-2007) benefited 448,944 families. The stages of settlement implementation, which create conditions for production development, include initial support for settling families, support for creating, financing and recovering households, besides a special aid for the semi-arid region. In 2007, more than R\$ 240 million were invested in infrastructure in settlements and about 80,400 families were benefited with credit for the construction of their homes at the rural settlements.

34. Through the National Program for Strengthening Family-based Agriculture (Pronaf), Brazil offers credit and technical support for peasants to expand their output and increase their income, which is an important tool for the reduction of inequalities and for settling small farmers in the rural areas. Over the last ten years, about R\$ 40 billion in credit have been allotted, in the aggregate, to family farmers, increasing from the level of about R\$ 416 million in the two-year period 1998-1999 to about R\$ 8.43 billion in 2006-2007.

35. The State recognizes the need to continue exerting efforts for the conclusion of the agrarian reform. Civil society organizations and social movements point to the existence of a significant number of rural workers and their families still without plots of land. The National Forum for Agrarian Reform and Justice in the Rural Countryside, formed by organizations involved in the issue of agrarian reform, estimates that there are more than 200,000 camped families, previously registered and waiting for the delivery of plots of land.

36. There are records of recurrent episodes of rural violence, especially related to conflicts for tenure and ownership of the rural lands. Between 2003 and 2005, the ombudsman and conflict mediation department Ministry of Agricultural Development recorded 72 fatal victims<sup>17</sup>. However, reports issued by civil society

organizations working on the defense of human rights show numbers higher than those. According to the Land Pastoral Commission, in 2006 there was an increase of 176.92% in attempted murders in relation to 2005, since in 2006 72 cases were recorded, whereas in the previous year there had been 26 incidents. The organization blames the continued violence on the low rates of punishment of perpetrators. It points out that, from 1985 to 2006, 1104 incidents were registered, with a total of 1464 deaths of workers. Of all those events, only 85 would have stood trial. The organization records the conviction of 71 offenders and 19 principals<sup>18</sup>. In addition, over the last few years there has been a growing number of claims that large agricultural businesses are provoking deforestation and using, in large scale, agricultural toxic products noxious to humans and to the environment.

37. Rural violence causes episodes of a strong symbolic nature, involving both human rights and environment defenders. It is the case of Sister Dorothy Mae Stang, the leader of about 500 families of rural workers who was killed in 2005 at a small community of the Brazilian Amazon region.

### **3.6 Right to education**

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

39. Since 2007, the public policies in education are articulated around the "Education Development Plan" (PDE), which was incorporated within priority social policies of the State for the years 2007-2010. PDE aims at boosting the results of the Brazilian education in a systemic manner and with a sharp focus on the most vulnerable areas. For such purpose, a synthetic indicator, which combines data about school flow and student performance, has been created so as to orient policies for basic education from now on. It is the Basic Education Development Index - IDEB<sup>19</sup>.

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

**Programa Brasil Alfabetizado** (Literate Brazil Program) is one of the Brazilian state's initiatives to fight illiteracy. It reaches youths over 15, adults and elderly people, who had no access to education or had to interrupt their studies, with special attention to the geographic regions with highest illiteracy rates. In 2007, the program reached about 1.3 million people, a target that will be broadened in 2008 to reach about 2 million.

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

### 3.7 Right to health

41. The state actions to implement the right to the health, over the last two decades, has been seeking to promote integrality, universality, equality and the incorporation of new technologies and services to the healthcare provided for the population. Those purposes have been fulfilled with the institutionalization of the Single Health System (SUS), which was created by the Federal Constitution of 1988 and makes the provision of public and free healthcare to all citizens an obligation of the State. In order to ensure the proper operation of the SUS, it is incumbent upon to the State, as a result of the decentralized nature of the health system, the management of public policies capable of answering properly to the different demands addressed to the System.

42. SUS gives priority to preventive actions and spread relevant information so that the population knows its rights and the risks to its health. In its history, the System leded especially successful program for implementation of the right to health, such as the "National Program of Sexually Transmissible Diseases/AIDS" and the strategy of "Family Health", which leded the health care closer to the population.

43. The policies of incentive to breastfeeding, increase of vaccine coverage and access to the pre-natal examination, associated to the investment in urbanization and in basic sanitation caused the mortality rate of children up to five years old to decrease one-half in Brazil<sup>20</sup>. However, the challenges imposed by the poverty, social inequality and ethnic-racial discrimination are yet to be overcoming.

44. However, there is a critical gap between the ideal of universalization aimed by SUS and the current status of the access to the health in Brazil. Concerning the hospital network, for example, there is lack of beds for internment, which causes the population to be dependent on the private network - in 1993, the quantity of beds per 1,000 inhabitants was of 3.35, having been reduced to 2.03 in 2005. The situation of the public beds is still more serious, with a reduction of 0.91 public beds per 1,000 inhabitants in 1992 to 0.87 in 2005. The number of hospital internments decreased from 8.1/100 inhabitants in 1993 to 6.2/100 inhabitants in 2005. In the same period, the hospital mortality rate increased from 2.2% to 3.2%<sup>21</sup>.

45. There are still cases of endemic diseases. In the case of malaria, for example, the annual average of recorded cases is of 530 thousand, concentrated in the Northern region of the country (more than 99% of the cases)<sup>22</sup>. From 1990, the number of cases of "dengue" in the country started increasing, reaching the record level of 794 thousand cases in 2002, decreasing to the number of 117,519 in 2004. It increased again to 217,406 in 2005, with 32,606 cases notified between January and March 2006<sup>23</sup>.

46. On the last few months, the Brazilian press has been giving emphasis to some cases of yellow fever detected in the country. However, it is verified that only 33

notifications occurred from 2007 until January 18, 2008, a number still very lower than the 85 cases recorded in 2000.

**“Saúde da Família”** (Family Health) is a strategy of re-guidance of the assistance model through the implementation of multi-professional teams in basic health units, strengthening the basic attention. These teams are responsible for the follow-up of a certain number of families, located at a limited geographic area. The teams develop actions to promote the community health.

In quantitative terms, there are 27,311 Family Health teams and 210.906 community health agents in activity in the Brazilian cities. To 2008, the established challenges are the increase of coverage of the Family Health Program and its extension to the Indigenous population and populations that live in the "quilombos" (remainders of slaves' communities from the XIX Century). The goal for 2008 is the increase for more than 29 thousand Family Health teams.

### 3.8 Right to Work

47. Public policies of the Brazilian Government for the promotion and compliance with the right to work are based on the concept of "decent work"<sup>24</sup>, formulated in the scope of the ILO in 2003. For its compliance, the "National Agenda of Decent Work" was introduced in 2006, which priorities, strategies and expected results have been elaborated in process of consultation to organizations of workers and employers. The Government priorities to make effective the right to work consist in the generation of more and better jobs; the eradication of forced and child work; and the strengthening of the social dialog - which are still challenges to be faced by the Brazilian Government.

48. In the decades of 1980 and 1990, as a result of the so-called structural adjustment policies, the unemployment became a core problem to the Brazilian society, because of the impact of social disaggregation originating from its increase. However, the unemployment rate in Brazil currently shows a clear trend of decrease. It affected 9.6% of the economically active population in 2004, but in December 2007 it shows a very lower percentage: 7.4%. In relation to the total occupied population with some kind of employment relationship, the rate of people with formal employment increased from 61.7% in March 2002 to 63.4% in December 2007, while the percentage of people without formal employment decreased from 28.3% to 26.6% in the same period.<sup>25</sup>

49. Concerning the number of employments created, it has been observed a growth of the investments in employment and income generation actions - from R\$ 6.9 billion in 2002 to R\$ 21.2 billion in 2005 -, directed to credit programs for micro and small companies, cooperatives and family agriculture. In the year 2007, according to the General Roll of Employees and Unemployed People ("Cadastro Geral de Empregados e Desempregados CAGED"), about 1.6 million formal jobs have been created - increase of 5.85%.

50. Since 1995, the Government has been promoting the fight against the work in conditions similar to slavery. In 2005, the National Plan of Forced Work Eradication was launched, foreseeing policies to be conducted by different vectors, such as actions to avoid rescued workers from returning to work in conditions similar to those of slave; the qualification of rescued workers; and the making of a list of employers that have kept workers in conditions similar to those of slave, among others. Concerning the theme, it is important to mention that there is a proposal of amendment to the Constitution in progress in the National Congress for the attachment, without payment of indemnity, of farms where it is detected the exploitation of forced work. Finally, the Brazilian Government carries out direct inspection actions for eradication of the slave work - "Special Inspection Group" linked to the Ministry of Labor. On the last twelve years, this Mobile Group freed 27,645 people. In 2007, a number of 5,877

rescues was achieved, the highest number achieved since 1995, when this kind of inspection has been implemented. The International Labor Organization, in its report "Global Alliance against Forced Labor", of 2005, emphasizes Brazil as one of the worldwide players that achieved higher progress in the area.

### **3.9 Fight Against Torture and Extrajudicial Executions**

51. It is still observed, in Brazil, frequent accusations of abuse of power, torture and excessive use of force, committed mainly by police officers and penitentiary agents. In June 2007, for example, an operation against drug dealing in the "Complexo do Alemão, a complex of slums in Rio de Janeiro left 19 dead people, among which were alleged victims of extrajudicial executions, according to civil society entities. Upon request of the Government of the State of Rio de Janeiro, which have already made the technical expert examination, the Special Department of Human Rights of the Presidency of the Republic carried out an independent study, which confirmed signs of executions. Official data of the States of São Paulo and Rio de Janeiro - the only states of the federation that have database for public consultation about accusations against police officers - appoint that 8,520 people have been killed by police officers in these states on the last five years.

52. The Brazilian Government recognizes the seriousness of this condition. The problem is difficult to be sized and the first obstacle is the current lack, in the country, of statistical bases to quantify the events in an accurate manner.

53. In relation to torture, it is worth mentioning, as an example, two estimates: (i) data raised by the Prosecuting Council, about accusations raised during 2004 and 2005. The report appointed 404 cases spread over 17 States<sup>26</sup>; (ii) academic research focusing Case Law of the Court of Appeals of the State of São Paulo in June 2005, which identified 8,127 cases that mentioned the word "torture", such number being reduced to 37 cases when the searched words were "police torture".<sup>27</sup>

54. The National Plan of Integrated Actions for Prevention and Fight Against Torture, based on the recommendations of the Special Rapporteur, Nigel Rodley, submitted in 2001 to the UN Human Rights Commission is to be emphasized. The actions comprised in the Plan are intended to punish effectively the torture and empower victims. Currently, eleven Brazilian States adhered to the Plan, creating State Committees intended to promote, at local level, the measures set forth therein (such as, for example, the creation of ombudsman offices for the police and prison systems and the qualification of civil society entities for monitoring jails).

55. The creation of the National Committee for Prevention and Fight Against Torture in Brazil, on June 26, 2006, and the ratification of the Facultative Protocol to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Penalties, on January 11, 2007, are important institutional milestone for the effective and permanent fight against torture. Arrangements are being made for the construction of a national mechanism of prevention and fight against torture, complying with the commitments established in the recently ratified Additional Protocol.

56. The main challenges for the full eradication of torture in the country are the resistance on the part of public agents to accuse and investigate cases which involve their mates, the fear of the victims and of their relatives of accusing torture and the mistakenly perception from the part of the public agents and the population in general that torture could be justified in the context of actions aimed at fighting against criminals.

### 3.10 Right to Public Security

57. The Brazilian Constitution assigns to the Federation units the primary competence in public security affairs. Taking this into consideration, the challenges in the public security area in Brazil lead the matter to the condition of Government priority. The public opinion demands the fight against criminality, which is very high in the metropolitan areas. There is a feeling of insecurity by the population because of daring criminal attacks against the public order. In May 2006, for example, attacks against police officers have been commanded from inside the prisons by the leaders of the criminal gang called First Command of the Capital (“Primeiro Comando da Capital - PCC”) and brought panic to the City of São Paulo. The fact that the country underwent a dictatorship regime for twenty years (1964-1985) contributes to explain the difficulties that are still faced today to conciliate an effective public security with the full respect to the human rights.

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

59. In addition to PRONASCI, the Government has been strengthening its criminal intelligence system, in order to better fight against the organized crime.

60. Brazil recognizes the need of a systematic production of data about violence, which demands higher interlinking of the database of the several Federal States. In order to promote such interlinking, mechanisms such as the Single System of Public Safety (“Sistema Único de Segurança Pública – SUSP”) are being improved, which assigns to the Union the role of manager of a national strategy on public security and reinforces the cooperative and systemic action of the Federal States, creating the basis for the institution of the National System of Public Security and Criminal Justice Statistics.

61. The Brazilian prisoners population is of about 420 thousand people, out of which 122 thousand are provisionally in prison, without having been judged. The prison system has a deficit of about 105 thousand vacancies. The prisoners overpopulation is an element that generates frequent rebellions, which eventually cause

death of some prisoners. The Government has been encouraging the application of penalties and alternative measures (other than imprisonment), which, on the last ten years, have been applied to the benefit of more than 174 thousand people. Measures are being taken in order to increase the work opportunities to prisoners and to people leaving prisons. Currently, about 87 thousand prisoners work on a voluntary basis, which allow them, in addition to the income perceived, to reduce the time of their penalties. The network of penitentiary schools has also increased, which allow the prisoners to have access to education. PRONASCI includes among its actions the remission of penalty if the prisoners attend classes in these penitentiary schools.

62. In response to two recent events occurred in public jails in the State of Minas Gerais in 2007, in which a total of 33 prisoners died in a rebellion followed by a fire, a Federal Legislative Investigation Committee has been created, with the purpose of investigating the weaknesses of the Brazilian prison system and search for solutions to the effective compliance with the Law of Criminal Executions.

63. One of the main measures adopted on the last years was the enactment of a law intended to control and reduce the sale, circulation and use of fire weapons in the country<sup>28</sup>. In spite of the fact that the full prohibition of the commerce of fire weapons has not been accepted in referendum<sup>29</sup>, the new legislation, followed by a campaign for collecting weapons, was responsible for the destruction of about 500 thousand weapons and, for sure, is one of the reasons of the reduction of 16.6% in the number of people murdered by fire weapons in the country.

### **3.11 Right to Memory and Truth**

64. Brazil lived under a military dictatorship for 21 years, between 1964 and 1985, when the process of redemocratization started with the election by an elector board of the first civil president since the military *coup d'état* of 1964. During this authoritarian period, there were torture, disappearance of people and the murder of political oppositionists by agents vested with power by the Government.

65. In 1979, during the last military Government, an Amnesty Act has been enacted, which allowed the return to the country of opposition leaders who lived in exile. Later, in 1995, Law 9140 has been enacted, by which the Government recognized its responsibility for the death of 136 political oppositionists, ensuring indemnity to the relatives of the victims.

66. By the same law, the Special Commission of Political Dead and Disappeared People (CEMDP), comprised of one parliament representative, one representative of the victims' relatives, one member of the Armed Force, one member of the Ministry of Foreign Affairs, one member of the Public Prosecution Council and three people appointed by the President of the Republic. After 11 years of work, the investigation was concluded, as well as the judgement of 339 cases of dead and disappeared people, out of which 221 have been granted and their relatives received indemnification. Currently, the commission works by searching the corpses of the dead and disappeared people and the building of a DNA database which will allow the storage of genetic material of the relatives for comparison with the victims' skeletons that may be found in the future.

67. In August 2007, the President of the Republic launched the report book "Direito à Memória e à Verdade" (Right to Memory and Truth) which presents the result of the work performed by the Special Commission on Political Dead and Disappeared People (CEMDP). The book summarizes all cases that were brought to the consideration of the Commission during 11 years, including the history and biography

of people disappeared from September 02, 1961 to October 05, 1988, as a result of participation or alleged participation in political activities of contestation to the political regime in force. With the launching of this book, the Brazilian Government took one step ahead to undertake its historical and administrative responsibility on the integrity of political dissidents and the destination given to them.

68. Despite the progress, there are still significant challenges to the full opening of files that contain information related to the military regime repression apparatus (1964-1985), as well as to the finding of the remains of the disappeared people and to the systematization of the collection of testimonies and information that may help in this search.

### **3.12 Right to the Free Sexual Orientation and Gender Identity**

69. The affirmation of the civil rights of homosexual people in the national political agenda is a recent phenomenon in the history of consolidation of the human rights in the Brazilian culture. The initial milestone of treatment about the theme in the scope of the public management, at the beginning of the 1990 decade, occurred by means of public health policies, in actions of control and assistance to people holding sexually transmitted diseases, especially AIDS. With the inclusion of references to the GLBT<sup>30</sup> population, in the II National Program of Human Rights, in 2002, and the creation of the program "Brazil without Homophobia" in 2004, the actions for protection of the right to free sexual orientation became more consistent, comprehensive and visible.

70. The "Gay Pride Parades" organized by the civil society with governmental support contributed, on the last years, for the suppression of social invisibility of the GLBT community, setting up the rights of this population segment and warning for the forms of violence, segregation and discrimination practiced against homosexuals.

71. To continue this process, the Brazilian government acknowledges the need of creation of normative rules that regulates the promotion of the specific rights of the homosexual population and, at the same time, insert homophobic behaviors in the penal legislation<sup>31</sup>, taking into account, especially, that homosexuals are frequent targets of violence acts and homicides. Concerning the deadly violence rates against the gay, lesbian and transgender population, it is relevant to observe that the civil society appoints that 2,790 murders of homosexuals would have occurred between 1980 and 2006 and that the majority of them would have been practiced because of homophobia.<sup>32</sup>

72. With the approximation of the I National Conference of the GLBT segment, called by the President of the Republic in April 2008, it is consolidated a significant conquest to the affirmation of human rights in Brazil.

**The Brazil without Homophobia Program - Program of Fight Against the Discrimination against the GLBT and Promotion of the Homosexual Citizenship**, Created from discussions by the civil society with the Government, comprises integrated actions for promotion of the GLBT citizenship in all Brazilian States. The program is comprised of actions of support to projects of strengthening of institutions acting in the area; qualification of health, education and public safety professionals; spreading of information about rights of the GLBT segment and expansion of support and care centers to homosexual people victims of violence. Among the achieved results, it must be emphasized the implementation of 47 Human Rights Reference Centers for Prevention and Fight Against Homophobia, in all states of the country, which make available specialized legal, psychological and social service and the creation of 12 Research Centers for Promotion of the GLBT Citizenship in public network universities.



### 3.13 Rights of the Indian Population

73. The challenges faced by the Brazilian Government in relation to the Indian people are to ensure the right to life according to their cultural standards and to promote the full citizenship and the effective participation of the Indian populations in the country's political, economic and cultural life.

74. The Brazilian Government believes that the recognition, the demarcation and the regularization of the Indians' lands are the main steps to acknowledge their individual and collective rights. The "Program of Protection of Indian Lands" under the responsibility of the National Foundation of the Indian (FUNAI) aims at the agrarian regularization of the territories traditionally occupied by the Indian people, in accordance with the constitutional regulation of the matter, which states that those lands are assets of the Union for the exclusive beneficial usufruct and permanent possession of the Indian populations.

75. The Program of Protection of the Indian Lands may be considered as the milestone in the recognition of the original rights of the Indian people. In Brazil, there is a total of 615 Indian lands recognized to this time, in a total area of 107 million hectares or 1.07 million square kilometers. This is equivalent to 12% of the Brazilian territory and more than twice the territory of France. From that amount, 422 lands or 97.2 million hectares are already duly demarcated with full recognition of the possession and beneficial usufruct by the Indians. The remaining lands are under evaluation according to the different stages of the normative process of recognition.

76. Besides the evident advances in the legal framework of the Indians' rights, there have been episodes of violence against some Indian communities, usually as a result of land disputes. In this context, it is worth mentioning the challenges faced by *guarani kaiowa* communities in the region of Dourados, in the State of Mato Grosso do Sul. They are striving for the recognition of their lands, for their safety, as well as for the maintenance of their social reproduction and economic sustaining skills. The Missionary Indigenous Council, a civil society organization, calculates that in 2007, 58 Indians have been murdered in Brazil, 35 of them in Mato Grosso do Sul<sup>33</sup>. Mistakenly indigenous policies of the past led the *guarani ñandeva* and *kaiowa* people, especially, to be concentrated in small reserves, where the extension and quality of the soil are inadequate for their needs. Many Indians are working at the local productive activities, near sugar cane mills, earning very low salaries or even in the state of indigence.

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

The **homologation of the Raposa Serra do Sol Indian Land**, with 1,747,464 hectares, represents the highest point of a long process of fight for the human rights of the Macuxi, Wapixana, Ingarikó, Patamona and Taurepang people in the North of Brazil. The Raposa Serra do Sol Indian Land is one of the main territories of traditional occupation in the country, pursuant to Article 231 of the Federal Constitution. The territory has a population estimated in more than 14 thousand Indians. Because of the large number of settlements and the intensive social relations among them, the demarcation of the Indian territory occurred continuously.

Despite the mobilization of groups contrary to this recognition, the Raposa Serra do Sol Indian Land was homologated in 2005, in solemn act, by the President of the Republic. Subsequently, the works for removal of the non-Indians dwellers started, be they occupants, rural owners or village dwellers. This process has not been concluded yet, as a result of the resistance of local rice producers, which use all available legal means to try to remain in the Indian lands. The Brazilian Government is making every effort so that the area release process is concluded in a peaceful manner and within the smaller possible term, so that all rights of the Indian people of the region are assured.

### **3.14 Rights of the Child and Teenager**

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

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

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

81. The Government is gathering efforts in order to face the social pressure for a more rigorous penalty to teenagers in conflict with the law. To this date, there are 32 proposals of amendment to the Constitution filed at the National Congress to lower the age for criminal responsibility. Brazil shows, on the other hand, serious violations of the rights of children and teenagers, illustrated by the high rate of homicides of young people (5,998 in 2006)<sup>34</sup>; by the existence of unsupported children and teenagers, mainly in large cities; by the cases of domestic violence; and by the illegal imprisonment of teenagers in public jails (as it happened in recently published cases of

two teenagers placed in prisons in Abaetetuba and Planaltina de Goiás, cities located in the Northern and Central-Western regions, respectively).

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

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

The child labor is fought by the **Program for Eradication of the Child Work (PETI)**. The main purpose of the Program is to take children and teenagers, from 7 to 14 years old, out of labor market, especially those considered as dangerous, hard, unhealthy or degrading. The families included in the program receive a monthly allowance for each child taken out of work; for such purpose, the children and teenagers shall attend the school in an enlarged shift, which includes sports, educational and leisure activities. The child labor in the country has increased from 2004 to 2006. The occupation rate of children in 2004 were about 5,365,000 (11.8% of the Brazilian population from 5 to 17 years old) and in 2005 this number has grown to 5,520,000 (12.1%). In 2006, the rate decreased, with the record of 5,120,000 working children (11.45%)<sup>35</sup>.

### 3.15 Rights of the Disabled People

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

83. According to data provided by the Ministry of Labor and Employment, in 2005, only 27.63% of the positions reserved in law for disabled people were at the labour market. In reference to the Public Management, the same source indicates, still in 2005, that only 8.23% of the legal quota was filled<sup>36</sup>. In relation to the general index of occupation, only 8,49% of the disabled people were employed in 2000.<sup>37</sup>

84. Intending to change the aforementioned condition, progresses have been reached on the two last decades, arising mainly from initiatives made from the adoption of a new paradigm of the theme approach. The public policies have been stressing to focus the protagonism and emancipation of the disabled people, aiming at ensuring the full exercise of their citizenship.

85. In the process of affirmation of the rights of disabled people, it is worth to be emphasized the holding, in 2006, of the I National Conference on the Rights of Disabled People, as well as the process, still in progress, of ratification of the Convention on the Rights of Persons with Disabilities, of the UN, with the perspective of new incorporation of their rights to the Brazilian Constitutional wording.

86. In addition, the National Accessibility Program was planned to provide actions to integrate disabled people in the social environment, in order to ensure the exercise of their basic human rights. From the introduction of specific rules of accessibility in the Brazilian laws, in 2004, the Brazilian Government has been following-up the compliance with the programs established in law for the elimination of humanistic barriers, in the transports, in the communication, in the information and

equipment. There is still a lot to be invested in that area so that Brazil is effectively considered a country that ensure the citizenship of all disabled people. The full effectiveness of the human rights of this segment demands Government actions focused on the fight against the cycle that joins poverty and disability; in the elimination of all kinds of discrimination against disabled people; and in the promotion of employment policies and actions for the qualification (deepening actions that are currently supported by the Government, in compliance with the Brazilian laws in force).

**Compensation of Violations of Rights of People Having Hansen's Disease** - The Brazilian Government, between the 1920's and 1970's, took measures of internment and compulsory removal of people infected by leprosy, the so-called Hansen's disease. Despite the discovery of the disease treatment, at late 50's, only in 1962 the end of obligatory forced stays in about 100 colonies built for such purpose occurred. The violence of the Government affected such people both by the fear of spreading of the disease and by the strong existing prejudice, which caused the enactment of laws with strong discrimination component. On the other hand, the violation of the freedom and the loss of dignity lasted for more than two decades after the change of the legislation, until the treatment started being at ambulatory. Brazil, aiming at recognizing and repairing the damages caused to people having Hansen's disease, was the second country in the world to establish a pension for life, with indemnity character, in the amount of R\$ 750.00 (US\$ 384.70) per month.

#### **4. FINAL PROVISIONS**

87. The Brazilian democratic transition reached its highest point at the end of the decade of 1980, with the raising of the principles of human dignity and participative democracy to the condition of basis of the Government action. The balance of achievements on the last two decades demonstrates that the overcoming of the challenges so that human being may live with dignity is directly associated to the active commitment of the Government with the protection and promotion of the fundamental rights.

88. The updating of the internal legal rules and the increased adhesion of the country to international instruments aim at filling gaps existing in the legal scope and ensure a better promotion and protection of human rights. Such evolution in the rules is being followed of changes in the institutional picture, which aim at strengthening the Government capacity of formulating and implementing human rights policies and reinforcing the spaces of social participation for the formulation and evaluation of those actions.

89. Among the actions recently formulated for promotion of the human rights and citizenship defense, it can be stressed the National Program of Public Safety with Citizenship - PRONASCI, which aims at approaching cross cuttingly to the causes and actions required to face criminality in Brazil. Another point worth of attention is the adhesion of Brazil to the commitment that reinforces the Government capacity to prevent and repress the practice of torture, as demonstrated by the ratification of the "Optional Protocol to the United Nations Convention Against Torture" and the creation of State Committees of Fight Against Torture.

90. Inequality is a historical characteristic of the Brazilian social-economic conformation, responsible for processes of social exclusion. Its reduction involves both the formulation of policies that meet the requirement of promoting human rights in universal basis and the adoption of initiatives that meet the demands of the segments traditionally affected by the exclusion.

91. The basis of action of the Brazilian Government comprises, in this context, the carrying out of direct income transfer program, such as Bolsa-Família (Family Allowance) and the Benefit of Continued Provision; the creation of the Single

Health System, focused on the provision of health services on an universal and free of charge basis; the universal access to the elementary education, associated to actions aiming at improving its quality and the fight against school evasion; and the increase of the right to proper feeding to the condition of strategic policy of the Government.

92. Concerning the segments traditionally affected by inequality and by exclusion, the Government has been adopting initiatives that vary from the fight against domestic violence till the compensation of several violations suffered by vulnerable groups.

93. The protection of the rights of the Indian populations aims at recognizing their traditions, ethnic and cultural integrity and the implementation of the right to their ancestral lands. The policies for disabled people aim at promoting their full autonomy and inclusion in the social life. The adoption of a network for protection of the rights of the elderly people, which is capable of reducing the high violence rate and the illiteracy rates is a challenge to the Government. The productive social inclusion and the environmental management of the lands are the basis of the policy adopted by Brazil for protection of the rights of traditional populations. The growing attention of the Brazilian society to the claims of homosexual, bisexual and transgender people (GLBT) demonstrated that the violations of human rights are aggravated when carried out against groups with little social visibility, so that the Government policies addressed to such groups intend to give visibility to these violations, in addition to measures to face the forms of violence encouraged by homophobia.

94. The importance of collective rights acknowledged by the Brazilian Government is reflected in policies for the promotion of a healthy environment, where the fight against environmental degradation is performed in association with the perspective of social inclusion. The protection to the non-material cultural patrimony, on its turn, is also valued and the cultural expressions start being observed as elements of huge potential for income generation.

95. In the international scope, Brazil assigns particular importance to the visits of Special Rapporteurs and similar authorities and recognizes the need of systematizing the follow-up of the recommendations issued by those entities, in order to include the internationally undertaken commitments in the national agenda of human rights. Such process shall involve the civil society, in order to become an additional instrument of claim before the Government.

96. Having in mind the 60th anniversary of the Universal Declaration of Human Rights, the Brazilian Government will promote, in 2008, a wide national debate for the review of the II National Program on Human Rights. In addition to the social players historically involved in these reflection processes - such as the civil society organizations and the legislative branch - the Federal Government will bring to the forum of debate the media, the judiciary branch, the federal states and the private sector and State owned companies. By proceeding in such way, Brazil complies with and reinforces the directives established by the National Plan of Education on Human Rights, elaborated in 2006, which identified these segments as preferential targets to spread the culture of human rights in the country. This discussion will have as its highest point the XI National Conference on Human Rights, to be held in December.

97. Brazil deems important the evaluation of the human rights at a worldwide level and considers fundamental the full engagement of all countries in the exercise proposed by the mechanism of Universal Periodic Review. Brazil will pay attention to the recommendations arising from such assessment, along with the constructive participation of the Country before the other international human rights monitoring and protection entities.

*Notes*

<sup>1</sup> The term for presenting the fiscal year's results to the Human Rights Council obliged the adoption of an intensive working schedule. Meetings were held on December 17, 2007 and January 09, 2008, among 18 Government entities and the Public Prosecution Service. The Government entities consulted were the following: Special Secretariat for Human Rights; Ministry of Foreign Affairs; Special Secretariat for Women Policies; Special Secretariat for Racial Equality Promotion Policies; Ministry of the Justice; Ministry of the Social Development and Fight Against Hunger; Ministry of the Education; Ministry of the Health; National Indian Foundation; Ministry of the Environment; Ministry of the Agricultural Development; Ministry of the Cities; Ministry of Labor and Employment; General Attorney's Office of the Republic; National Council of Justice; Ministry of Culture; Ministry of the Sports; and Institute of Applied Economic Research (Ipea).

<sup>2</sup> A draft of the Report and a questionnaire requesting information about challenges, specific laws and successful programs were distributed during the meetings.

<sup>3</sup> The holding of the meetings was publicized in the website of the Special Secretariat for Human Rights. In addition to that, the following organizations have been invited by e-mail to all meetings, as well as to the public hearing: Ação dos Cristãos para Abolição da Tortura – ACAT; Ação Educativa; Ação Empresarial pela Cidadania Pernambuco; Ações em Gênero, Cidadania e Desenvolvimento – Agende; Articulação de Mulheres Brasileiras – AMB; Articulação do Semi-árido Brasileiro – ASA; Assessoria e Serviços a Projetos em Agricultura Alternativa – AS-PTA; Associação Brasileira de Gays, Lésbicas e Transgêneros – ABGLT; Associação Brasileira de Municípios – ABM; Associação Brasileira de ONGs – ABONG; Associação Brasileira Interdisciplinar de AIDS – ABIA; Associação Brasileira Terra dos Homens; Associação de Assistência à Criança Deficiente – AACD; Associação Nacional de Ação Indigenista – ANAÍ; Associação Nacional do Ministério Público de Defesa dos Direitos dos Idosos e Pessoas com Deficiência – AMPID; Caritas Brasileira; Casa de Passagem; Central Geral dos Trabalhadores do Brasil – CGTB; Central Única dos Trabalhadores – CUT; Centro de Agricultura Alternativa do Norte de Minas – CAA; Centro de Estudos e Segurança da Cidadania – CESEC; Centro Integrado de Estudos e Programas de Desenvolvimento Sustentável – CIEDS; Centro pela Justiça e o Direito Internacional – CEJIL; Comissão Brasileira de Justiça e Paz; Comissão de Direitos Humanos da Ordem dos Advogados do Brasil, seção São Paulo; Comissão de Direitos Humanos do Conselho Nacional da Ordem dos Advogados do Brasil; Comissão de Direitos Humanos do Conselho Nacional de Igrejas Cristãs – CONIC; Comitê Chico Mendes; Comunidade Bahá'í do Brasil; Confederação da Agricultura e Pecuária do Brasil – CNA; Confederação Nacional de Municípios – CNM; Confederação Nacional dos Trabalhadores na Agricultura – CONTAG; Conselho Indígena de Roraima – CIR; Conselho Indigenista Missionário – CIMI; Coordenação das Organizações Indígenas da Amazônia Brasileira – COIAB; Diaconia; Direitos Humanos na Internet – DHnet; Federação de Órgãos para a Assistência Social e Educacional – Fase; Federação dos Trabalhadores na Agricultura Familiar na Região Sul – FETRAF-SUL/CUT; Fórum de Entidades Nacionais de Direitos Humanos; Frente Nacional de Prefeitos – FNP; Fórum Nacional dos Direitos da Criança e do Adolescente; Fundação Gol de Letra; Grupo de Trabalho Amazônico – GTA; Instituto Antígona; Instituto Camões; Instituto Casa da Cultura Afro-Brasileira – ICCAB; Instituto da Mulher Negra – Geledés; Instituto de Defesa dos Direitos de Defesa – IDDD; Instituto Brasileiro de Análises Sociais e Econômicas – IBASE; Instituto de Estudos, Formação e Assessoria em Políticas Sociais – POLIS; Instituto de Estudos Socioeconômicos – INESC; Instituto Ethos; Instituto Probono – Conectas; Instituto Recriando; Instituto Socio-Ambiental – ISA; Instituto Sou da Paz; Movimento de Organização Comunitária – MOC; Movimento dos Trabalhadores Rurais Sem Terra – MST; Movimento Nacional de Meninos e Meninas de Rua – MNMMR; Novamérica; Núcleo de Estudos da Violência da Universidade de São Paulo – NEV/USP; Observatório das Violências Policiais – OVP; Organização das Cooperativas Brasileiras – OCB; Pacto Global; Pastoral da Criança; Rede Brasileira pela Integração dos Povos – REBRIP; Rede de Informações para o 3º Setor – RITS; Rede Feminista de Saúde; Rede Nacional de Mobilização Social – COEP; Rede Social de Justiça e Direitos Humanos; Serviço de Assessoria a Organizações Populares Rurais – SASOP; Sindicato Nacional dos Auditores Fiscais do Trabalho – SINAIT; Terra de Direitos; Viva Rio; and WWF Brasil. The Government also requested the organizations to publish the consultation process in their existing human rights networks.

Representatives of the following organizations attended at least one of the meetings: ABGLT; ABIA; CIMI; COIAB; Comunidade Bahá'í do Brasil; FENDH; FNDCA; Gabinete de Assessoria Jurídica às Organizações Populares – GAJOP; IBASE; Instituto Probono – Conectas; Justiça Global; Movimento Tortura Nunca Mais de Pernambuco; Movimento Nacional de Direitos Humanos – MNDH; MST; REBRIP.

Finally, the following organizations sent written contributions: ABGLT; ABIA; AMPID; CIR; Comissão de Cidadania e Reprodução - CCR; Comunidade Bahá'í do Brasil; Conselho Federal da Ordem dos Advogados do Brasil; GAJOP; IBASE; Instituto Antígona; Instituto de Desenvolvimento e Direitos Humanos – IDDH; Instituto Probono-Conectas; Grupo Otimismo; Justiça Global; MST; Rede Feminista de Saúde; Sociedade Paraense de Defesa dos Direitos Humanos – SDDH.

<sup>4</sup> Among them, the Convention on the Elimination of All Kinds of Discrimination Against Woman (1984); the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatments or Penalties (1989); the Inter-American Convention to Prevent and Punish Torture (1989); the Convention on the Children's Rights (1990); the International Agreement on Civil and Political Rights (1992); International Agreement on Economic, Social and Cultural Rights (1992); the American Convention on Human Rights (1992); the Additional Protocol to the American Convention on Human Rights in Matter of Economic, Social and Cultural Rights (1996); the Protocol to the American Convention on Human Rights related to Abolishing the Death Penalty (1996); the International Convention on International Traffic of Minors (1997); the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Woman (1995); the Statement of Recognition of the Obligatory Competence of the Inter-American Court of Human Rights (1998); the Facultative Protocol to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatments or Penalties (2007); the Convention on the Rights of Persons with Disabilities and the Convention for the Protection of All People against Enforced Disappearance, both signed in 2007.

For the exhaustive list of the stage of adhesion from Brazil to the international human rights instruments, see item "A" of the section of Attachments hereof.

<sup>5</sup> See Constitutional Amendment EC 45/2004.

<sup>6</sup> Currently the actions of the Government are organized under the aegis of PNDH II. A process of review of this plan, geared towards its updating in conformity with the recent transformations occurred in the Brazilian society, is in progress since the middle of 2007. The launching of a new plan is foreseen to the beginning of 2009, after the holding of the XI National Conference of Human Rights, in December 2008.

<sup>7</sup> Visited Brazil, between 1998 and 2008: Mrs. Fatma-Zohra Ksentini, Special Rapporteur on the Adverse Effects of the Illicit Movement and Dumping of Toxic and Dangerous Products and Wastes on the Enjoyment of Human Rights (1998); Mr. Nigel Rodley, Special Rapporteur on the Question of Torture (2000); Mr. Jean Ziegler, Special Rapporteur on Right to Food (2002); Mr. Arjun Sengupta, Independent Expert for the Right to Development (2003); Mr. Juan Miguel Petit, Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography (2003); Mrs. Asma Jahangir, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (2003); Mr. Miloon Khotari, Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living (2004); Mr. Leandro Despouy, Special Rapporteur on the Independence of Judges and Lawyers (2004); Committee Against Torture (2005); Mr. Doudou Diene, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance (2005); Mrs. Hina Jilani, Special Representative of the Secretary-General on the Situation of Human Rights Defenders (2005); and Philip Alston, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (2007).

<sup>8</sup> Brazil is a party to the Ushuaia Protocol and the ratification of the Asuncion Protocol is underway in the Brazilian National Congress.

<sup>9</sup> The PNP actions are based on 4 guidelines: 1) autonomy and equality in the work and citizenship; 2) inclusive and non-sexist education; 3) women's health, sexual rights and reproductive rights; and 4) confrontation of the violence against women.

<sup>10</sup> IPEA. "Discriminação e Segmentação no Mercado de Trabalho e Desigualdade de Renda no Brasil, 2007".

<sup>11</sup> IBOPE/ETHOS, 2007.

<sup>12</sup> Ipea. Contributions given to the base text of the II National Conference on Policies for Women, 2007.

<sup>13</sup> IBGE. Monthly employment survey - PME, 2006.

<sup>14</sup> Social Policies Center of Fundação Getúlio Vargas. "Retrato do Presidiário Carioca", 2004.

<sup>15</sup> The National System of Alimentary Safety is foreseen to be created along this year, based on the resolutions approved in the II National Conference on Alimentary and Nutritional Safety, which was held in July 2007.

<sup>16</sup> In Brazil, the parameter employed to dimension the extreme poverty line is that of the monthly receiving, *per capita*, of income in an amount lower than one-fourth of the national minimum wage; the poverty line is of one-half minimum wage (R\$ 89.60 and R\$ 179.21, respectively). Data provided by Instituto de Pesquisa Econômica Aplicada (Ipea).

<sup>17</sup> Deaths originating from agrarian conflicts shall mean those recognized as such by the respective police inquest.

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<sup>18</sup> Land Priest Commission. "Conflitos no Campo no Brasil", 2006. See at [www.cptnac.com.br/?system=news&action=read&id=1825&eid=6](http://www.cptnac.com.br/?system=news&action=read&id=1825&eid=6).

<sup>19</sup> As a goal, IDEB is expected to show a result of value 6 for Brazil until 2022 - as a reference, the current average index for countries of the Organization for Economic Co-operation and Development - OECD. The Brazilian basic education has currently an average of 3.8 points for the initial years of the Elementary School; and 3.5 for the final years of the Elementary School; and 3.4 for the High School, in a scale from zero to ten.

<sup>20</sup> In 1990, there were 57 deaths of children for each 1,000 born alive. In 2006, the rate decrease to 20, which is much lower than the worldwide average of 72 deaths for each 1,000 babies. Therefore, it is likely that Brazil will achieve the goal of reduction of child mortality foreseen among the millennium goals, of 18/1,000 children born alive.

<sup>21</sup> Database of the Ministry of Health. See at [www.datasus.gov.br](http://www.datasus.gov.br).

<sup>22</sup> SUS Indicator Panel, volume I, August 2006, Ministry of Health.

<sup>23</sup> Ministry of Health SUS Indicator Panel, volume I, August 2006.

<sup>24</sup> Decent work is that performed with proper compensation, in conditions of liberty, equality and safety, capable of ensuring a condign life to the citizen.

<sup>25</sup> Monthly Employment Survey - IBGE (values for Metropolitan Regions).

<sup>26</sup> Survey made by the General Coordination of Fight Against Torture of the Special Department of Human Rights before the Brazilian State Public Prosecution Services between 2003 and 2005.

<sup>27</sup> MAIA, Luciano Mariz. "Do controle judicial da tortura institucional no Brasil hoje - à luz do direito internacional dos direitos humanos." 2006. Doctorate thesis, 370 pages. Federal University of Pernambuco, Recife.

<sup>28</sup> Disarmament Act - Federal Law No. 10826/2003.

<sup>29</sup> In October 2005, a referendum was made so that the population would manifest about the prohibition of the commerce of fire weapons in the country. Only 36% of the electors were favorable to the prohibition, which was defended by the government. Despite that, in an international survey made in May 2006, 90% of the Brazilian said to be favorable to a stricter control on the import and export of fire weapons.

<sup>30</sup> The acronym shall mean the following groups: gay, lesbian, bisexual, transsexual and transgender people.

<sup>31</sup> In such concern, it is in progress in the National Congress, still pending of definitive approval, the following legislative proposals: draft (PL) No. 1.151/95, which regulates and recognizes the civil partnership of people of same gender; PL No. 5.003/2001, which criminalizes homophobia; PL No. 6655/2006, which authorizes the change of the given name of transgender and transsexual people; and PL No. 81/2007, which creates the National Day of Fight Against Homophobia.

<sup>32</sup> Gay Group of Bahia. Murders of Gays in Brazil, 2006.

<sup>33</sup> *In* SYDOW, Evanize; Mendonça, Maria Luisa (Orgs.). *Direitos Humanos no Brasil 2007*. Ver: <http://www.social.org.br/relatorio2007.pdf>.

<sup>34</sup> Database of the Ministry of Health, see [www.datasus.gov.br](http://www.datasus.gov.br).

<sup>35</sup> IBGE - National Survey of Domicile Samples. Reference years 2004, 2005 and 2006. See at [www.ibge.com.br](http://www.ibge.com.br).

<sup>36</sup> Database of the Ministry of Labor and Employment, 2006.

<sup>37</sup> IBGE. National Census Research, 2000.

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