



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Consideration of reports submitted by States  
parties under article 35 of the Convention**

**Initial reports of States parties due in 2010**

**Brazil\***

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## I. General report

1. Pursuant to article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities, the States parties undertook to submit to the Secretary-General of the United Nations for consideration by the Committee on the Rights of Persons with Disabilities a report on the measures adopted to fulfill the Convention's obligations:

(a) Within two years after the entry into force of the present Convention for the State party concerned; and

(b) Thereafter, at least every four years and further whenever the Committee so requests. Article 36, paragraph 1, provides that the Committee may request further information from States parties.

2. Elaboration of the national report provides the Brazilian State and society with an opportunity to:

(a) Conduct a thorough review of the measure adopted to bring national legislation and policies in line with the provisions of the Convention following its enactment into domestic law as the equivalent of a constitutional amendment;

(b) Ascertain the progress made in the access to exercise of the rights set forth in the Convention, within the general framework of human rights promotion;

(c) Identify existing problems and deficiencies in the focus adopted for purposes of implementing the Convention;

(d) Plan and develop appropriate policies to achieve the respective goals.

3. The report of the Federative Republic of Brazil is divided into two parts. In the first part, designated the general report, basic information on the country and the general framework for protecting and promoting human rights is provided, with a more detailed discussion of the legal instruments used to guarantee and defend the rights provided for in the Convention applied through the National Human Rights Program III (Programa Nacional de Direitos Humanos III – PNDH-3), the National Plan for the Rights of Disabled Persons (Plano Nacional dos Direitos da Pessoa com Deficiência) of the Unified Health System (Sistema Único de Saúde), the Unified Social Assistance System (Sistema Único de Assistência Social), and the Brasil Plan 2022 (Plano Brasil 2022), which established goals for implementation through the year of Brazil's bicentennial celebration. The second part, entitled specific report of the Federal Republic of Brazil on the fulfillment of the general provisions of the Convention on the Rights of Persons with Disabilities 2008-2010, sets out specific information on the application, under law and in practice, of articles 1-33 of the Convention.

4. Finally, it is important to note that this report was submitted for public consultation, with a view to drawing contributions from civil society to the document's development, pursuant to the guidance of the Committee on the Rights of Persons with Disabilities (Comitê dos Direitos das Pessoas com Deficiência). To this end, a preliminary version of the report was made available on the special public consultations site of the Ministry of Planning, Budget, and Management from April 8 – June 7, 2011. The comments and suggestions received were examined and incorporated to the final text, ensuring greater transparency in the development of Brazil's final report.

## A. General information

5. Brazil has a service area of 8,514,876 km<sup>2</sup> and a population, according to the 2010 Census of the Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística – IBGE), of 93.3 million men and 97.3 million women, for a total population of 190,732,694. The population is distributed heterogeneously across the 26 states of the Federation and the Federal District, where the nation's capital, Brasília, is located. The national currency is the Real, while the official language is Portuguese. Brazil's official sign language – LIBRAS – is recognized as a legal form of communication and expression, pursuant to Law No. 10436 dated April 24, 2002.

6. In its first report on human development in Latin America and the Caribbean, which devotes specific attention to income distribution, the United Nations Development Programme (UNDP) found that notwithstanding the clear improvement in national income distribution in recent years Brazil still ranks third from the bottom in this category in the region.

7. Income concentration in the country is influenced by a set of factors, including the lack of access to basic services, and infrastructure, low incomes, in addition to an unfair tax system, and the absence of education mobility between generations. For example, in Brazil the schooling levels of parents influence the educational levels achieved by their children by 55%. In regard to the women's participation in the labor market, women have a larger presence in the informal economy, work longer hours, and often receive lower salaries than their male counterparts for the same work. In general, being an Afro-Brazilian or indigenous woman is synonymous with yet greater deprivation. On average, the Afro-Brazilian and indigenous segments have twice as many individuals living on less than one dollar per day than the white population.

8. While historically inequality has been high, persistent, and reproduced in a context of low social mobility, the vicious cycle can be broken – not with mere interventions to reduce poverty, but through the implementation of public policies to diminish inequality. An example involves income transfer mechanisms. The achievements secured in recent years in the area of social policy have been reflected in changes in income distribution. Public expenditures on social initiatives have grown, despite the fiscal limits confronted. In addition, social spending per inhabitant has increased as well, concentrated primarily in social security and assistance programs – the former a product primarily of the rising number of retired persons.

9. Through these initiatives, Brazil Gini index rating fell between 1990 and 2008, a result of increased incomes at the base of the Brazilian social pyramid and a real decline in the compensation paid to workers in the country's highest paying jobs. In the period, the monthly income of the bottom 10% of the population grew by 44.4%, while the incomes of the top 20% rose 16.5%. Among the top 10% of earners, real monthly incomes fell by 9.8% in the period, a decline that was even more acute for the wealthiest 1% of the population.

10. The 2010 Human Development Index (HDI) ranks Brazil 73rd among 169 countries and 11th in HDI in Latin America. Given the methodological changes introduced in 2010, comparing Brazil's 2010 HDI ranking with previous years would be inappropriate and of little analytical utility. To provide a suitable comparative base, the United Nations Development Programme (UNDP) recalculated Brazil's data for the past ten years on the basis of the new methodology adopted. According to the new calculus, Brazil would move up four positions and register a 0.8% growth on the index. In 2010, pursuant to the new methodology, Brazil's HDI was 0.699 on a scale of 0-1. The 2010 report concludes that Brazil's HDI points to a "sustained growth trend over the years." Even with the adoption of a new methodology, Brazil is situated among the high human development countries, as verified in 2009, when, based on the former methodology, Brazil occupied the 75th position

on the ranking, with an HDI score of 0.813. The 2010 report reveals that per capita income is US\$ 10,607.00, while life expectancy stands at 72.9 years. Average years of schooling are 7.2 years and school life expectancy is 13.8 years. According to the UNDP, the positive evolution of Brazil's HDI has been, in addition to continuous, harmonious, as reflected in the improvement in all components of the index since 1975.

11. In 2010, the figures on Gross Domestic Product (GDP) indicate that total wealth produced in Brazil has grown at an accelerated pace, in comparison to the output registered in previous years. The Brazilian economy expanded 7.5% in 2010, according to the IBGE. The total value of Brazil's GDP was R\$ 3.675 trillion, representing the biggest jump since 1986, when the country grew 7.5%. According to the IBGE, the largest GDP rise in 24 years was influenced by robust domestic demand and the low comparative base from the prior year, when GDP contracted 0.6%, due to the effects of the 2008 global economic crisis. From 2001 through 2010, average annual growth was 3.6%, above the level registered in the previous decade (1991-2000), at an average of 2.6%. Per capita GDP was R\$ 19,016.00 last year, a 6.5% rise over 2009 (R\$ 16,634.00).

12. The Brazilian Federal Constitution was promulgated in 1988. The Constitution mandates that the Federative Republic of Brazil is an indissoluble union of states and municipalities and the Federal District constituted as a Democratic State governed by the Rule of Law and founded on sovereignty, citizenship, the dignity of the human person, the social value of work and free enterprise, and political pluralism. It sets forth as a fundamental principle of the Union a tripartite of powers operating within a system of checks and balances aimed at ensuring effective control of the three independent branches. Within the executive branch, the Office of the Public Prosecutor (Ministério Público) was established to exercise jurisdiction over the State by defending the legal order, the democratic system, and non-transferrable social and individual interests.

13. In recent years, Brazil has gained worldwide recognition for effecting a paradigm shift on the question of disabled persons through the legal framework introduced by the Federal Constitution and infra-constitutional laws that extended the promotion and guarantee of individual and collective rights to the effective implementation of social inclusion within the context of human rights. Beyond the legislative changes incorporated, the Brazilian State moved to develop measures to transform the traditionally limited assistance model in a manner that enables disabled persons to exercise a leading role in their emancipation and citizenship, thereby contributing to the country's development.

14. The Secretariat for Human Rights of the Office of the President of the Republic (Secretaria de Direitos Humanos da Presidência da República) has endeavored, through the National Secretariat for the Promotion of the Rights of Disabled Persons (Secretaria Nacional de Promoção dos Direitos da Pessoa com Deficiência – SNPD), the body with primary responsibility for the public policies aimed at persons with disabilities, to design and implement programs capable of providing for the segment's inclusion. In addition, it has worked to build structural policies to redefine the logic of case specific and isolated intervention. As such, it strives to disseminate in Brazil the cross-cutting nature of the question of disability supported by the planning and execution of integrated measures by all federal agencies in cooperation with the state and municipal government and with the contributions of rights councils and organized civil society. Data of the Brazilian Institute of Statistics and Geography (IBGE) in 2010 indicate that 23.91% of the Brazilian population have some form of disability, a segment totaling approximately 45.6 million. The Brazilian Government has included assistance to the specificities of this portion of society as a priority goal, with a view to ensuring the access to the basic goods and services available to society at large. Further, the Federal Government has undertaken joint efforts with the states and municipalities to create specific agencies tasked with coordinating and implement inclusive policies for disabled persons at the local level.

## **B. General human rights protection and promotion framework**

15. The Brazilian State signed the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto on March 30, 2007. Following approval by the National Congress through Legislative Decree No. 186 dated July 9, 2008, and Executive Branch Decree No. 6949 dated August 25, 2009, the Convention was formally enacted as a Constitution Amendment, pursuant to article 5, paragraph 3, of the Federal Constitution.

16. Disabled persons were given special attention in the 1988 Federal Constitution for the purpose of ensuring their condition did not prevent the full exercise of their rights. In addition to the rights and guidelines set forth in the text, the Constitution established a series of legal resources and mechanisms to restore violated rights, which may be invoked in the event established rights, are infringed.

17. Some of these resources may be applied by disabled persons themselves, while others require government action by agencies charged with overseeing indivisible and non-transferrable rights of the disabled (Office of the Public Prosecutor and Office of the Public Defender) or associations dedicated to protecting disabled persons.

## **C. Legal instruments used to guarantee and defend the rights provided for in the Convention**

### **1. Direct Action of Unconstitutionality (ADI or ADIN)**

18. The Convention on the Rights of Persons with Disabilities is the first international human rights treaty that enjoys equivalent status to a constitutional amendment under article 5, paragraph 3, of the Brazilian Constitution. As such, any law or normative measure contrary to the Convention will also be in contravention of the Federal Constitution, subject to a Direct Action of Unconstitutionality (Ação Direta de Inconstitucionalidade – ADI or ADIN) entered before the Brazilian Federal Supreme Court (Supremo Tribunal Federal), the country's highest judicial body, for the purpose of terminating continued violation of the respective right.

19. The list of parties eligible to file the Action is set forth in article 103, subsections I-IX, of the Federal Constitution. They include: the President of the Republic; the Prosecutor-General of the Republic; the State Governors and the Governor of the Federal District; the administrative bodies of the Chamber of Deputies, the Federal Senate, the Legislative Assembly of the Federal District; the Chair of Legislative Assemblies; Political Parties with representation in the National Congress; the Federal Council of the Brazilian Bar Association (Conselho Federal da Ordem dos Advogados do Brasil – OAB); National Trade Associations and Trade Unions.

### **2. Claim of Noncompliance with a Constitutional Fundamental Principle (ADPF)**

20. The 1988 Federal Constitution introduced important innovations to the national legal system. In regard to constitutional controls, beyond the implementation of the direct action of unconstitutionality by virtue of omission and expansion of legitimate actors eligible to file direct actions of unconstitutionality a new constitutional mechanism was incorporated, the Claim of Noncompliance with a Fundamental Constitutional Principle (Arguição de Descumprimento de Preceito Fundamental – ADPF).

21. The Constituent Assembly charged lawmakers with outlining this new jurisdictional instrument, leading to passage of Law No. 9882/99. The statute brought important innovations, including the possibility of controlling the constitutionality of municipal laws

or normative acts and controlling normative acts enacted prior to the Federal Constitution (article 1, sole paragraph, subsection I).

22. Due to its status as a recent instrument of the national legal system, the final outline of the ADPF has not yet been delineated. The opinions of the Federal Supreme Court on the legitimacy of the ADPF have been limited to date to consideration on the complementary nature of the claim, reaffirming standing precedent precluding control by the STF of acts of an eminently political nature. In view of the position that an effective means is already in place for correcting the injury or harm claimed under the ADPF the instrument is invalid.

### **3. Public Civil Action**

23. Another instrument frequently invoked to defend the rights of disabled persons is the public civil action (which may be preceded by a public civil investigation). This procedural mechanism is aimed at ensuring diffuse and collective rights.

24. The list of parties eligible to file public civil actions is extensive, as specified in article 5 of Law No. 7347/85:

- (a) The Office of the Public Prosecutor;
- (b) The Office of the Public Defender;
- (c) The Union, the States, the Federal District, and the Municipalities;
- (d) Self-governing public agencies, State-owned companies, public foundations, and semi-public corporations;
- (e) The Federal Council of the Brazilian Bar Association (Law No. 8906/94, article 54, sub-section XIV); and
- (f) Associations constituted for at least one year pursuant to civil law and the institutional ends of which include protecting the environment, consumer, the economic order, free enterprise, or artistic, aesthetic, tourist, and landscape heritage.

25. It is also worth noting that while Law No. 7347/85 does not specifically authorize private citizens to file a public civil action, it does allow them to report information on facts potentially subject to a civil action to the Office of the Public Prosecutor, including indication of the pertinent evidence.

26. In this context, the Office of the Public prosecutor serves as the competent body to establish the civil investigation and enter the public civil action for the purpose of protecting public and social property, the environment, and other diffuse and collective interests, among them the rights of disabled persons (article 129, sub-section III, of the Federal Constitution).

27. Further, the Office of the Public Defender exercises, among others, the following institutional duties: to file public civil actions and any others capable of ensuring appropriate safeguarding of homogenous diffuse, collective, and individual rights where the outcome of the legal action could benefit a group of vulnerable persons; to defend homogenous individual, diffuse, and collective rights and interest and the rights of consumers, pursuant to article 5, sub-section LXXIV, of the Federal Constitution; to provide a full defense of persons with special needs, including their individual, collective, social, economic, cultural, and environmental rights, to which end any type of action capable of effectively safeguarding such rights may be filed; and to defend the individual and collective interests of children and adolescent, the elderly, disabled persons, women victims of domestic and family violence, and vulnerable groups warranting special protection by the State (text provided by Complementary Law No. 132 of 2009).



#### 4. Writ of Mandamus

28. Article 5, sub-section LXIX, of the Federal Constitution makes explicit reference to writs of mandamus:

“A writ of mandamus shall be issued to protect a clear and perfect right, not covered by habeas corpus or habeas data, whenever the party responsible for the illegal actions or abuse of power is a public official or an agent of a corporate legal entity exercising duties of the Government;”

29. As set forth, the violation of any disabled person’s rights leads to issuance of a writ of mandamus as equitable and effective relief intended to ensure prompt restoral of the right in question. Expeditionousness is ensured through summary proceedings and grant of an ex parte injunction handed down prior to hearing of the respondent party.

#### 5. Class Action Suits

30. Ensured by the Constitution under article 5, subsection LXXIII, and regulated by Law No. 4717/65, class action suits may be brought by any private citizen for purposes of invalidating an unlawful act damaging to public property. The purpose of class action suits, which may be applied as a preventive or repressive instrument, is to provide individuals with a direct and democratic channel to oversee and control public management.

### D. National Human Rights Program III (PNDH-3)

31. The National Human Rights Program III (Programa Nacional de Direitos Humanos III – PNDH-3) emerged from a long and thorough discussion between the Government and civil society, represented by diverse social movements that played a decisive role in developing the initiative. Of particular note, a full 31 ministries signed the statement of motives submitted to the President of the Republic for purposes of enactment of the decree establishing the third National Human Rights Program.

32. The Brazilian state has ratified the principal international human rights instruments, incorporating them as a part of national law. Therefore, in legal and political terms, compliance with their provisions is required on the domestic front. The Federal Constitution enshrines citizenship and human dignity as underlying principles of the Brazilian State, mandating the consolidation of a free and fair society guided by solidarity and committed to national development, poverty elimination, the reduction of social and regional inequality and promotion of the welfare of all people, without prejudice or discrimination of any nature. In addition, the Constitution prescribes that human rights serve as an underlying governing principle of Brazil’s international relations.

33. National guidelines on the government’s performance in the human rights field were developed have been implemented since 1996, when the first National Human Rights Program (Programa Nacional de Direitos Humanos – PNDH I) was launched. More than ten years following the end of the military government, after the end of the dictatorship, social demands at the time focused in increasingly on the need to ensure civil and political rights. The Program was revised and updated in 2002 and expanded through incorporation of economic, social, and cultural rights, resulting in the publication of the second National Human Rights Program (Programa Nacional de Direitos Humanos – PNDH II).

34. The third version of the National Human Rights Program – PNDH-3 constituted an additional toward consolidation of the guidelines aimed at ensuring the effective promotion of human rights in Brazil. Among the initiative’s most notable advances were the cross-cutting and inter-ministerial focus of the respective guidelines, strategic objectives, and programmatic actions from the perspective of universal, indivisible, and interdependent

rights. The nationwide public discussion during development of preparation of the PNDH-3 coincided with the 60th anniversary of the Universal Declaration of Human Rights and the 11th National Conference on Human Rights (Conferência Nacional dos Direitos Humanos – 11th CNDH).

35. Convened by presidential decree in April 2008, the 11th NHRC included a National Working Group established through SEDH/PR Directive No. 344, the primary purpose of which was to coordinate preparatory activities, submit proposals, and provide guidance to the state and district conferences. The Working Group was composed of the representatives of national and human rights movements, in addition to members of the Executive, Legislative, and Judicial Branches, the Office of Public Prosecutor, and the Office of Public Defender. The National Executive Committee of the Conference was composed of the former Special Secretariat for Human Rights of the Office of the President of the Republic (Special Secretariat for Human Rights of the Office of the President of the Republic), the Committee on Human Rights and Minorities (Comissão de Direitos Humanos e Minorias) of the Chamber of Deputies and the National Forum of Human Rights Organizations (Fórum de Entidades Nacionais de Direitos Humanos). This tripartite structure ensured interaction between the different segments engaged in the effort to defend human rights in Brazil, in what represented a challenging, but responsible, exercise of democratic dialogue and discussion, which included its fair share of tension, disagreements, and disputes.

36. Inspired by the slogan Democracy, Development, and Human Rights: Overcoming Inequality (Democracia, Desenvolvimento e Direitos Humanos: superando as desigualdades), the objective of the 11th CNDH was to forge a space through which to foster a democratic and participatory review and update of the PNDH and, in this way, meet the challenge of addressing the multiple dimensions of human rights in an integrated manner. To this end, the methodology adopted centered on promoting discussion within the context of guiding axes, an approach which stood in sharp contrast to previous programs, all organized around specific topics. Driven by the cross-cutting nature of the respective themes, an integrated methodology, and coordination among a diversity of government and civil society organizations, the 26 states and the Federal District officially convened and held their individual conferences, conferring institutional weight to the discussions.

37. Throughout the process, a total of 137 meetings designated Open, Regional, Territorial, or Municipal Conference or Pre-Conference, were held prior to the corresponding state and district stages. Approximately 14,000 participants engaged in the process, including government officials, representatives of women's movements, child and adolescent rights activists, disabled persons, Afro-Brazilians and members of *quilombo* communities, sexual diversity activities, senior citizens, environmentalists, landless persons, the homeless, members of indigenous groups, followers of Afro-Brazilian religions, Roma, members of river and coastal communities, and others. The shared initiative between civil society and official representatives of the Republic laid the groundwork for the development of National Human Rights Policy as a genuine State Policy.

38. The PNDH-3 was divided into six guiding axes (Democratic Interaction between State and Civil Society; Development and Human Rights; Universal Rights within a Context of Inequality; Public Security, Access to Justice, and Combating Violence; Human Rights Education and Culture; Right to Memory and Truth), which were further subdivided into 25 guidelines, 82 strategic objectives, and 521 programmatic actions, that either incorporate or reflect the 7 axes, 36 directives, and 700 resolutions adopted at the 11th National Conference on Human Rights held in Brasília, December 15-18, 2008, thereby bringing to fruition process developed at the local, regional, and state levels. A cornerstone of the Program, in addition, involve the proposals approved at nearly 50 national thematic

conferences dating back to 2003 on racial equality, women's rights, food security, cities, the environment, health, education, youth, culture, etc.

39. The commitments in connection with promoting and protecting human rights set forth in the PNDH-3 provided for a specific agenda for the promotion and protection of human rights intended, ultimately, for adoption by the Brazilian State, based on the international commitments undertaken by the country. Adherence to the federal pact – which sets out the responsibilities of the three branches of government, the Office of the Public Prosecutor, and the Office of the Public Defender, as well as the commitments of the three levels of government – constitute a key requirement to ensure the PNDH-3's objectives are achieved and effectively implemented as State policy. The responsibility of the Brazilian State to meet its international treaty obligations must be assumed by the three branches of government at each level of the federation, with ultimate responsibility for their fulfillment falling to the Federal Executive Branch. Indeed, this requirement serves as the basis for the recommendations to other federal entities and branches of government laid out in the PNDH-3.

40. The PNDH-3 sets out the guidelines, strategic objectives, and programmatic actions that are to be pursued over the coming years. Operational determination of its implementation, and the corresponding timetables for fulfillment, will be ensured through Action Plans developed every two years, to which end the necessary budget resources, concrete measures, and executing agencies will be specified.

41. An underlying purpose of the PNDH-3 is to ensure continued integration and enhancement of existing participatory mechanisms, as well as the development of new strategies for formulating and monitoring human rights policies in Brazil. At the institutional level, the PNDH-3 expands the progress secured in respect of fundamental rights and guarantees by internalizing the primacy of human rights as an essential cross-cutting principle of all public policy initiatives.

#### **Universalizing Rights within a Context of Inequality**

42. The Universalizing Rights within a Context of Inequality axis interacts with Brazilian initiatives to reduce poverty and ensure income generation for the poorest segments of society, contributing decisively to the elimination of hunger and poverty. Recent achievements in social policy still require the elimination of structural barriers to ensure their full realization. The PNDH-3 recognizes this reality and provides for essential guidelines on the development of instruments capable of ensuring adherence to human rights and ensuring their universal application.

43. The Universal Declaration of Human Rights states in its preamble that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” However, the setbacks in fulfillment of the Declaration by the Signatory States revealed the need to recognize diverse circumstances and differences in implementing the principle of equality.

44. In Brazil, human rights have come to occupy a prominent position in recent decades within the domestic legal system. The country has moved decisively to protect and promote the right to differences. However, lingering negative effects of the past continue to exercise an impact on continuing profound social inequality. The access to fundamental rights is still hampered by structural barriers, remnants of a long historical process, stretching centuries, marked by genocide of indigenous peoples, slavery, and extended periods of authoritarian rule, all practices that continue to echo through behaviors, national legislation, and existing social realities.

45. The PNDH-3 incorporates the progress achieved in recent years both in the field of poverty and hunger elimination policies and the focus devoted to housing and health, while

providing for continued and expanded access to the respective policies, fundamental initiatives to ensure the respect for human dignity. The strategic objectives directed at promoting full citizenship are founded on the universality, indivisibility, and interdependence of human rights, necessary conditions for their full and equal implementation. Access to birth certificates, adequate food, land and housing, decent work, education, political participation, culture, leisure, sports, and health must take into account human beings in their multiple dimensions as social actors and citizens.

46. Driven by the history of social movements and government programs, the PNDH-3 is guided by a cross-cutting approach aimed at ensuring the implementation of civil and political rights contemplate the full range of economic, social, cultural, and environmental rights. If this were not the guiding principle, the social groups affected by poverty, structural racism, and discrimination would be deprived of access to those rights. The programmatic measures developed aim to address the challenge of eliminating inequality, through the incorporation of gender and race considerations in public policy initiatives, from the planning stage to implementation and evaluation. To this end, proposals have been put forth to develop indicators for purposes of measuring the progressive implementation of rights. It is important to note that inequality is accompanied by the persistence of discrimination, which often manifests itself through the violence perpetrated against historically and structurally disenfranchised individuals.

47. Guideline 10: Guaranteeing equality in diversity of the Universalizing Rights within a Context of Inequality axis is based on the following strategic objectives and programmatic actions for disabled persons:

**Strategic Objective I:** To affirm diversity in the construction of an egalitarian society.

**Programmatic Actions:**

(a) To execute educational campaigns and measures to deconstruct stereotypes in connection with ethnicity and race, age, sexual identity and orientation, disabled persons, or socially discriminated professional segments.

**Responsible Agencies:** Special Secretariat for Human Rights of the Office of the President of the Republic; Special Secretariat for the Promotion of Racial Equality of the Office of the President of the Republic; Special Secretariat for Women's Policy of the Office of the President of the Republic; Ministry of Culture

**Partners:** Ministry of Education; Palmares Cultural Foundation (FCP); National Indian Foundation (Fundação Nacional do Índio – FUNAI); National Council for Disabled Persons (Conselho Nacional da Pessoa Portadora de Deficiência – CONADE); National Council for the Rights of Older Persons (Conselho Nacional dos Direitos do Idoso – CNDI); National Committee on Human Rights Education (Comitê Nacional de Educação em Direitos Humanos)

**Strategic Objective IV:** To promote and protect the rights of disabled persons and ensure equal access

**Programmatic Actions:**

(a) To guarantee disabled persons equal and effective legal protections against discrimination.

**Responsible Agencies:** Special Secretariat for Human Rights of the Office of the President of the Republic; Ministry of Justice

**Partner Institution:** National Council for Disabled Persons (CONADE)

(b) To guarantee appropriate and effective safeguards to prevent abuses against disabled persons and older persons.

**Responsible Agency:** Special Secretariat for Human Rights of the Office of the President of the Republic

**Partner Institution:** National Council for Disabled Persons (CONADE)

(c) To ensure compliance with the Accessibility Decree (Decree No. 5296/2004), which provides for accessibility through the adaptation of public roads and sidewalks, traffic lights, furniture, rooms, recreational and leisure spaces, transportation, public buildings, including educational establishments, and other individual and collective use facilities.

**Responsible Agencies:** Special Secretariat for Human Rights of the Office of the President of the Republic; Ministry of Labor and Employment; Ministry of Cities

**Partner Institutions:** Secretariat of Institution Relations of the Office of the President of the Republic (Secretaria de Relações Institucionais da Presidência da República); Ministry of Education; National Council for Disabled Persons (CONADE)

(d) To ensure didactic and pedagogical materials to meet special education needs.

**Responsible Agency:** Ministry of Education

**Partner Institution:** National Council for Disabled Persons (CONADE)

(e) To disseminate the Braille system, Tadoma method, sign writing, and tactile Brazilian Sign Language (Língua Brasileira de Sinais – LIBRAS) for purpose of including disabled persons in the school system.

**Responsible Agencies:** Special Secretariat for Human Rights of the Office of the President of the Republic; Ministry of Education

**Partner Institution:** National Council for Disabled Persons (CONADE)

(f) To institute and implement the Brazilian Sign Language as an optional academic discipline.

**Responsible Agencies:** Special Secretariat for Human Rights of the Office of the President of the Republic; Ministry of Education

**Partner Institution:** National Council for Disabled Persons (CONADE)

(g) To propose the regulation of professionals in respect of the implementation of accessibility, such as: LIBRAS instructors, guide-interpreters, translator-interpreters, Braille proofreaders and readers, and guide dog trainers.

**Responsible Agency:** Ministry of Labor and Employment

**Partner Institutions:** Special Secretariat for Human Rights of the Office of the President of the Republic; National Council for Disabled Persons (CONADE)

(h) To prepare reports on the municipalities with the structures to contribute toward monitoring compliance with and implementation of the applicable accessibility laws.

**Responsible Agencies:** Ministry of Cities; Special Secretariat for Human Rights of the Office of the President of the Republic.

**Partner Institution:** National Council for Disabled Persons (CONADE)

**Recommendation:** It is recommended that the states, the Federal District, and the municipalities monitor public transportation concessionaires for compliance with the accessibility laws in force, in partnership with the municipal transportation secretariats, the Office of the Public Office, pertinent councils, and civil society.

## **E. National plan for the rights of persons with disabilities**

48. The National Plan for the Rights of Persons with Disabilities – Living Without Limits (Plano Nacional dos Direitos da Pessoa com Deficiência – Viver sem Limite) was launched by President Rousseff on November 17, 2011. The objective of the Plan is to promote citizenship and strengthen the participation of disabled persons in society by promoting their autonomy, removing barriers, and providing access and enjoyment on an equal basis to the goods and services offered to the population as a whole. The Plan's measures are organized around four axes: education, health, social inclusion, and accessibility.

49. The Living without Limits initiative sets targets to be implemented through 2014 based on a projected budget of \$ 7.6 billion. The respective actions will be implemented jointly by 15 Federal Government agencies, coordinated by the Secretariat for Human Rights of the Office of the President of the Republic (SDH/PR).

50. In the educational field, the Plan provides for actions such as the delivery of accessible school transportation services to ensure access for disabled students to educational institutions; architectural adjustments to public schools and federal institutions of higher education, equipping them with adequate means of accessibility; the implementation of new multifunctional classrooms and upgrading of existing classrooms; and the offer of up to 150,000 opening for persons with disabilities in federal vocational and technology training courses. Through 2014, a total of R\$ 1.8 billion will be invested in this effort.

51. In the field of health, R\$ 1.4 billion will be allocated to the expansion of disability prevention measures and the creation of a national system for the monitoring and active identification of neonatal screening, including an increase in the number of Guthrie Test exams. In addition, habilitation and rehabilitation measures and dental care will be strengthened and production networks and the access to orthotics and prosthetics expanded. The Plan will also enhance clinical and therapeutic efforts through the preparation and publication of protocols and guidelines for a variety of diseases associated with disabilities.

52. To promote social inclusion, Reference Centers will be implemented to provide support to at risk disabled persons, including those in extreme poverty or subject to abandonment and social isolation. The Reference Centers will have a projected budget of R\$ 72.2 million.

53. The accessibility axis provides for joint actions between the Union, states, and municipalities and planned investments of R\$ 4.1 billion. For example, 100% of the units built under the My Home, My Life 2 Program (Minha Casa, Minha Vida 2) will be designed with the pertinent adaptations, generating 1,200,000 homes appropriately equipped for persons with disabilities. Additionally, a total of five technology centers will be established to deliver technical training to guide dog trainers and instructors throughout the country. Further, the urban mobility measures undertaken as part of the Growth Acceleration Program (Programa de Aceleração do Crescimento – PAC 2) and the 2014 FIFA World Cup will all meet the applicable accessibility requirements.

54. Through the National Plan for the Rights of Persons with Disabilities, the Government's measures will be systematized to meet the needs of persons with disabilities more quickly, transforming Brazil into a more inclusive society.

## F. Unified Health System (SUS)

55. The Brazilian Constitution mandates that health is a duty of the State and a social right of all citizens, irrespective of their contribution to the system. Article 126 states: “Health is a right of all and a duty of the State and shall be guaranteed by means of social and economic policies aimed at reducing the risk of illness and other hazards and at the universal and equal access to actions and services for its promotion, protection and recovery.”

56. The Unified Health System, under which the country’s health care model is organized pursuant to the Organic Health Law (Law No. 8080/1990), has introduced changes to its practices based on the constitutional principles of universality, equity, and integrity. Of particular note are the guidelines in article 7, chapter II:

(a) delivery of full care, understood to mean a coordinated and continuous set of preventive and curative individual and collective measures and services as required on a case-by-case basis at every level of complexity of the Health System (sub-section II);

(b) Preservation of individual autonomy for purposes of ensuring physical and moral integrity (sub-section III);

(c) Provision of equal health care, without prejudice or privileges of any nature (sub-section IV);

(d) Right of patients to information, particularly health information (sub-section V);

(e) Dissemination of information on the potential of health services and their use by patients (sub-section VI);

(f) Capacity of service to offer solution at all levels of health care (sub-section XII).

57. The Ministry of Health, the body with primary responsibility for administering the Unified Health System (SUS) at the federal level, is tasked with formulating and implementing public health policies, serving primarily as the responsible standardization, regulatory, and funding agency for the health activities performed by State Health Departments, Municipal Health Departments, and the Federal District.

58. Responsibility for funding and promoting coordination and structural interaction within the SUS, for purposes of ensuring universal and equal access to health measures and services, is shared by the Union, States, Federal District, and Municipalities, which are charged with planning, scheduling, and ensuring health measures and services within the scope of their particular jurisdictional competencies, including the delivery of care for persons with disabilities through the SUS network (public and/or partner establishment under the system).

59. The National Policy on Primary Care (Política Nacional de Atenção Básica), regulated by MS/GM Decree No. 2528 dated October 19, 2006, is founded on a set of measures aimed at individuals and society/communities. These measures may involve health promotion, protection, disease prevention, diagnosis, treatment, rehabilitation, and health maintenance. Primary Care is the first level of care and, as such, is considered the preferred means of initial contact or gateway for users to the health system. The policy is implemented through joint teamwork efforts, whereby each team is responsible for monitoring the health of the population in a given territory.

60. With a view to organizing and strengthening Primary Care, the Ministry of Health has made the Family Health strategy its strategic priority. The Primary Care delivered through the Family Health strategy identifies the population’s most common and frequent

problems, controls chronic diseases and related complications, prevents disease and disabilities, reduces unnecessary tests, streamlines referrals to more complex services, provides care for spontaneous health needs, and reduces the demand for emergency and hospital care. Through the Family Health strategy, health care is delivered by multidisciplinary teams, which takes into account the patient's health, as well as his or her working and housing conditions, and family and community relations. The inclusion of assistance to families is essential to ensure the provision of humane, comprehensive, and effective care. It encompasses psychological and social support measures, guidelines on the performance of day-to-day activities and basic rehabilitation actions, and the provision of specialized support in cases of hospital or home care.

61. The Family Health strategy is organized into teams. Each team is composed, at least, by a physician, a nurse, a nursing assistant, and up to 12 Community Health Agents (Agentes Comunitários de Saúde – ACS). Oral Health teams are set up as well, comprised of dental professionals (dentists, dental assistants, and/or dental hygienists) tasked with serving up to four thousand patients. Further, municipal administrators are charged with determining whether to include other professionals in the respective teams, including psychologists, physical therapists, speech therapists, social workers, and others.

62. The Ministry of Health established the Family Health Support Centers for (Núcleos de Apoio à Saúde da Família – NASF) through the MS/GM Decree No. 154/08, for the purpose of expanding the range and scope of Primary Care measures, in addition to their capacity to resolve health matters. The Centers are made up of teams of professionals engaged in different fields assigned to work in partnership with the Family Health Teams (Equipes de Saúde da Família – ESF). NASF/1 teams may be composed of five or more professionals, specifically: physicians (pediatricians, gynecologists, homeopaths, acupuncturists, and psychiatrists), social workers, physical education instructors, pharmacists, physical therapists, speech therapists, nutritionists, psychologists, and occupational therapists. For their part, NASF/2 teams may be made up of teams of up to three professional from among those listed above, except the medical professional category.

63. In its 22 years of existence, the Unified Health System (SUS) has become a broad interconnected services network. Over the years, Brazil transitioned from a system which up until 1988 only ensured access to health to workers enrolled in the Social Security System – 30 million people – to the SUS, an enterprise aimed at serving over 190 million people. Despite the progress, however, enormous challenges remain. Indeed, the Ministry of Health's priority moving forward is to address the management and structural deficiencies of the SUS.

64. Approximately 80% of the Brazilian population depends exclusively on the SUS, which accounts for 3.27 health visits per capita/year, provides 3.66 beds per 1,000 of population (approximately 366,000 beds), and registers an infant mortality rate of 20.2 per one thousand live births. A full 95 million Brazilians are served by 29,900 Family Health Teams (ESF) engaged in 94.2% of Brazil's municipalities. The scope and impact of SUS is further revealed in the recent achievement of the following milestones:

- Approximately 114.1 million people are served by the Community Health Agents (ACS), engaged in 96% of Brazil's municipalities;
- Every year, the SUS performs on the order of 2.3 billion ambulatory procedures, more than 300 million medical consultations, and 2 million births;
- In regard to more complex procedures, 19,000 transplants, 215,000 heart operations, 9 million chemotherapy and radiation therapy sessions, and 11.3 million hospital admittances;



- The quality and impact of some of the country's health programs have gained wide recognition internationally, including Brazil's immunization, AIDS, and anti-smoking efforts, all of which have obtained results largely unmatched anywhere else in the world;
- The SUS represents a notable example of the effectiveness of the democratic federative pact through which measures are agreed to by formal bodies and agencies of the three levels of government, with, additionally, a widely disseminated social oversight component, offering a model for other public policy initiatives now under development.

## **G. Unified Social Assistance System (SUAS)**

65. The Unified Social Assistance System (Sistema Único de Assistência Social – SUAS) is a public system under which Brazil's social assistance services are organized in a decentralized manner. Founded on a participatory management model, the System serves to coordinate efforts and resources at the three levels of government for the implementation and funding of the National Policy on Social Assistance (Política Nacional de Assistência Social – PNAS) through direct application of national, state, municipal, and Federal District regulatory structures and frameworks.

66. Coordinated by the Ministry of Social Development and Hunger Alleviation (MDS), the System is composed of representatives of government and civil society who participate directly in shared management processes. Through July 2010, a full 99.4% of Brazilian municipalities had been certified in one of the SUAS management levels. Similarly, the states committed to the implementation of local and regional social assistance systems and to their adaptation to the proposed management and co-financing models signed agreements to enhance the System.

67. The SUAS divides social assistance measures into two types of social protection. The first is Basic Social Protection aimed at the prevention of social and personal risks through the delivery of programs, projects, services, and benefits to vulnerable individuals and families. The second involves Special Social Protection intended for at-risk families and individuals or whose rights have been violated by virtue of abandonment, abuse, sexual abuse, drug use, and other factors.

68. The SUAS also encompasses the delivery of Social Assistance Benefits to specific public services in a coordinated manner, in order to contribute toward overcoming situations of vulnerability. It also oversees the association of social assistance entities and organizations to the System, by maintaining the National Registry of Social Assistance Entities and Organizations updated and issuing certifications to charitable organizations, where applicable.

69. A product of the discussions and decisions arising from the Fourth National Conference on Social Assistance (IV Conferência Nacional de Assistência Social) and provided for in Organic Law of Social Assistance (Lei Orgânica da Assistência Social – LOAS), the SUAS's underlying implementation structures were consolidated in 2005 through the SUAS Basic Operational Standards (NOB/SUAS), which lays out in clear terms the responsibilities of each federal agency and the pillars of the initiative's implementation and consolidation.

70. The management of SUAS measures and application of the related resources are negotiated and agreed to by the Bipartite Inter-Management Committees (Comissões Intergestores Bipartites – CIBs), which render decisions on the necessary operational aspects for appropriate application of national norms to the specific circumstances and conditions of each state, through proposed measures to regulate state-municipality and municipality-

municipality relations, and by the Tripartite Inter-Management Committee (Comissão Intergestores Tripartite – CIT), in which the activities of federal, state, and municipal administrators are coordinated with a view to effectuating the Social Assistance Policy (Política de Assistência Social), through negotiation of and agreement on the specific operational aspects in connection with management of the Decentralized and Participatory Social Assistance System (Sistema Descentralizado e Participativo da Assistência Social). These procedures are accompanied and approved by the National Council on Social Assistance (Conselho Nacional de Assistência Social – CNAS) and its local counterparts, which are tasked with performing critical public oversight duties. The SUAS's financial and management transactions are also supported by the SUAS Network, a system that contributes to the management, monitoring, and evaluation of activities.

71. Effective implementation of quality services requires addressing the diversity of potential work strategies, in conjunction with the various demands in the country and the need for tangible coordination in each territory of the respective services and other public policies. Another challenge to the operation of services is the construction of appropriate methodological approaches capable of taking into account the country's regional diversity, which manifests itself in a diversity of ways, including in the socioeconomic and cultural realms, as means of leveraging the full potential of participants. In this light, coordinated efforts with the family members of persons with disabilities is critical, so as to ensure these individuals receive the full range social protections to which they are entitled.

72. To fulfill the requirements set out in the applicable SUAS regulations, since 2008 the procedures for expanding federal co-funding of the Comprehensive Family Care Protection Service have required accessibility, pursuant to CIT Resolution No. 03 dated June 3, 2008.

73. To ensure effective fulfillment of the respective regulations for purposes of fostering planning efforts between federal agencies, the Department of Basic Social Protection (Departamento de Proteção Social Básica) of the MDS has engaged in a series of discussions with the Tripartite Commission in particular respect of the Social Assistance Reference Centers (Centros de Referência da Assistência Social – CRAS), municipal public institution with primary responsibility for providing the principal social protection services, in addition to those services offered through or related to the initiative. In 2010, Annual CRAS Millennium Development Goals were formally agreed to (CIT Resolution No. 05 dated May 3, 2010), as well as the flows, procedures, and responsibilities for monitoring management and service deliveries of the Unified Social Assistance System – SUAS (CIT Resolution No. 08, dated July 14, 2010).

74. The two resolutions provide for monitoring and technical support from the states to the municipalities and from the MDS to the Federal District and the development of Plans of Measures (Planos de Providência) to overcome deficiencies. The Plans must be approved and agreed to within the Bipartite Inter-Management Committees – CIBs. Sanctions may be applied in the event of non-fulfillment the Plans of Measures.

75. The evaluations on enhancing services revealed that the 2007, 2008, and 2009 CRAS Census failed to collect information on specific target audiences, including persons with disabilities, participants under the basic social protection services offered through the CRAS system. Efforts were made to We tried to address this shortcoming in 2010 through a directive mandating that the 2010 CRAS Census collect information on the number of persons with disabilities participating in services to foster coexistence and strengthen ties for children, adolescents, older persons, and/or young persons. In addition to this information, the 2010 CRAS Census gathered information on the CRAS that offer Basic Social Protection services to persons with disabilities and/or older persons in their places of residence.

76. With regard to the assistance provided to families and individuals whose rights have been violated, but who maintain family ties, even if tenuous, and at risk from an individual and social standpoint by virtue of physical, sexual, or psychological violence, sexual exploitation, neglect, drug abuse, and child labor, the individual municipalities and the Federal District have primary responsibility for planning of the related actions in accordance with the respective vulnerabilities and demand for services. Services are provided to users in their place of residence, day centers, the Specialized Social Assistance Reference Center (Centro de Referência Especializado da Assistência Social – CREAS – CREAS) or CREAS affiliated units. The assistance provided is systematized and planned through the development of individual and/or family plans; socio-family guidance; social studies; socioeconomic diagnostic analyses; personal care measures; family, group, and social life development actions; personal documentation access efforts; support to the protective role of families; mobilization of extended family units; mobilization and strengthening of social interaction and support networks; and mobilization for the exercise of citizenship.

## H. Plan Brazil 2022

77. Development of the Plan Brazil 2022 involved Working Groups composed of experts of the Secretariat of Strategic Affairs (Secretaria de Assuntos Estratégicos – SAE), representatives of the individual ministries, the Civil House (Casa Civil), and the Institute of Applied Economic Research (Instituto de Pesquisa Econômica Aplicada – IPEA). The Plan Brazil 2022 sets out goals for implementation by the Federal Administration and Brazilian society through 2022, when the country will celebrate its bicentennial.

78. The mission of the Secretariat of Strategic Affairs of the Office of the President of the Republic (SAE/PR) is to promote long-term national planning, discuss maintain discussions on the country's strategic actions, and coordinate the formulation of national strategies and long-term national development actions with government and society. To achieve these objectives, the SAE works in coordination with other areas of government, especially those engaged in the design and implementation of the country's strategic development policies.

79. As part of the preparatory work for the Plan, the Working Groups elaborated texts, based on each ministry's individual plan and program, guided by the following parameters: strategic importance of the area; principal recent advances; recommended goals and actions. The prepared texts were submitted to public consultation for purposes of drawing comments, critiques, and recommendations from civil society organizations, academics, government agencies, and others. Based on the draft texts and comments submitted, the Plan Brazil 2022's Centennial Targets were established in general terms, in close coordination with the respective Ministers, without specification of the measures to be undertaken due to the available implementation period.

80. In regard to persons with disabilities, the following Centennial Target was established: to **ensure the exercise of all rights by persons with disabilities and reduced mobility**. The provision is aimed at securing Brazil's commitment to ensure all persons with disabilities the same rights as those without disabilities and to ensure, additionally, those specific rights that guarantee enjoyment of a full life for persons with disabilities. The preparatory work for the Plan Brazil 2022 also took into account the following strategic goal for persons with disabilities:

**Objective 6** – To guarantee accessibility for all persons with disabilities.

For purposes of achieving this goal, it was recommended that the following measures be undertaken:

1. To monitor and foster the implementation of article 9 of the Convention on the Rights of Persons with Disabilities governing the identification and elimination of obstacles and barriers to accessibility, with a view to ensuring access to persons with disabilities on an equal basis with other persons to physical means, transportation, information, and communications, including information and communications systems and technologies, as well as other services and facilities open or provided to the public in urban and rural areas alike.
  2. To monitor and foster compliance with Decree No. 5296/04, so as to ensure priority assistance for persons with disabilities and reduced mobility and the full promotion of accessibility, based on universal criteria, within established timetables.
  3. To provide training to all actors on accessibility issues facing persons with disabilities.
  4. To foster access by persons with disabilities to all forms of live assistance and intermediaries, guides, including professional sign language interpreters, and readers, with a view to facilitating access to the diversity of facilities and services open or provided to the public.
  5. To promote the access of persons with disabilities to new information and communications systems and technologies, including the Internet.
  6. To organize national awareness-raising campaigns on the theme of accessibility, with particular focus on promoting the human rights of persons with disabilities.
  7. To foster accessibility in regular educational establishments, in order to ensure access for persons with disabilities.
  8. To contribute to the dissemination of the Braille, Tadoma, Sign Writing, and LIBRAS systems for purposes of the inclusion of persons with disabilities in the educational system.
  9. To contribute toward regulation of professional engaged in implementing accessibility – LIBRAS instructors, guides, interpreters, transcribers, Braille proofreaders and readers, and guide dog trainers.
  10. To promote coordination between the different sectors engaged in regulating the National Policy on Books and Reading (Política Nacional do Livro e Leitura) for purposes of incorporating issues in connection with accessibility.
81. A comparative analysis of the articles contained in the Convention on the Rights of Persons with Disabilities and the measures provided for in Objective 6 of the Human Rights section of the Plan Brazil 2022 preparatory text indicates that the Objective includes implementation of several of the provisions set forth in Convention. Specifically:
- Measure 1 explicitly cites article 9 of the Convention on the Rights of Persons with Disabilities, governing accessibility. The promotion of full accessibility, training on question of accessibility, and regulation of professions aimed at the implementation of accessibility are provided for in measures 2, 3, and 9;
  - Measure 4 refers to article 19 of the Convention, including the right to living independently and being included in the community through access to a diversity of assistance services;
  - Some of the provisions in article 21 of the Convention aimed at guaranteeing the freedom of expression and opinion and the access to information, in particular those relating to the former, are set out in measures 5 and 8;

- Measure 6 provides for National Awareness-Raising Campaigns to promote the rights of disabled persons. The importance of awareness-raising pertains directly to article 8 of the Convention;
- Finally, the right to education and access to the means for learning development assured to disabled persons through article 24 of the Convention are laid out in detail in measures 7, 8, and 10 above.

## **II. Specific report of the Federal Republic of Brazil on the fulfillment of the general provisions of the Convention on the Rights of Persons with Disabilities 2008-2010**

### **Articles 1 (Purpose), 2 (Definitions), 3 (Fundamental principles) and 4 (General obligations)**

82. With a view to fulfilling its obligations as a Democratic State under the Rule of Law, Brazil has endeavored to ensure exercise of the rights of a free and just society founded on solidarity through the promotion of measures to ensure the welfare of all people, in accordance with the applicable constitutional principles.

83. To this end, Brazil has adopted clearly defined inclusive policies based on the Constitution's recognition of the right to full citizenship for persons with disabilities, assured through a comprehensive legal framework, the national human rights program, and the nation plan for the inclusion of persons with disabilities. Persons with disabilities are recognized as active participants in the life of the State through the full exercise of their human rights.

84. In ratifying the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto and conferring on them the status of constitutional amendment, Brazil undertook the challenge to bring its legal framework into line with and adjust public policy to the definition of disability enshrined in the Convention. In addition to formal adjustment of the terminology employed, accomplishing this objective requires review of the concept of disability and incapacity, as well as the adoption of new methodologies for evaluating disabilities and the degree of incapacity for independent living and work, key parameters in determining the grant of benefits under existing programs and affirmative action initiatives.

85. In practical terms, application of the Convention's principles has been guided by a strategy for long-term implementation, as exemplified below:

(a) In the short term: development of policies to provide assistance to disabled persons for purposes of implement a national strategy to integrate government and nongovernmental measures; effectuation of standards and guidelines governing the access of disabled persons to the job market and civil service; adoption of measures to enable access by disabled persons to information broadcast by the media;

(b) In the medium term: consolidation of an inclusive education policy for persons with disabilities; implementation of programs to remove barriers that prevent or impede the full participation of persons with disabilities in social life;

(c) In the long term: design of information systems and identification of indicators, including the development of databases on disabled persons, legislation, technical assistance, bibliographies, and capacity building and training.

86. Much still remains to be done in terms of ensuring reliable statistics capable of more effectively supporting the various public policies implemented in Brazil, although a number of efforts were launched in recent years to overcome the lack of databases on persons with disabilities. For example, information on the “existence of a disability” is included in certificates of live birth, as well as the health cards of children and women. In addition, Ministry of Education school censuses track the number of children and adolescents with disabilities enrolled in the public education system.

## **Article 5 – Equality and non-discrimination**

87. Equality and non-discrimination are addressed in the Brazilian Constitution in the articles cited below:

Article 3. The fundamental objectives of the Federative Republic of Brazil are:

I – To build a free, just, and solidary society;

IV – To promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination.

Article 5. All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security, and to property, on the following terms:

Paragraph 1 – The provisions establishing fundamental rights and guarantees have immediate effect.

Paragraph 2 – The rights and guarantees set forth in this Constitution shall not exclude others deriving from the regime and from the principles adopted by it, or from the international treaties in which the Federative Republic of Brazil is a party.

Paragraph 3 – The international human rights treaties and conventions approved by each Chamber of the National Congress by a three-fifths majority in two separate votes shall be deemed equivalent to a constitutional amendment.

88. In conjunction with the Constitution, a number of instruments enacted into law promote equality and non-discrimination. In respect of prevention, a variety of laws passed to ensure and promote these rights will be discussed throughout this report, to the extent they pertain to the rights provided for in the Convention.

89. In regard to repression (criminal acts), abusive discriminatory conduct is categorized as a criminal offense under article 140, paragraph 3, of the Brazilian Penal Code (Código Penal – CP):

### **Crime of Slander**

Article 140. To slander someone, offending his or her dignity or decorum. Sentence – one to six months’ imprisonment, or fine.

Paragraph 3 – Where the slander consists in the use of references to race, color, ethnicity, religion, origin, or status as an older person or disable persons: Sentence – one to three years’ imprisonment and fine.

90. Also of note is the fact that Law No. 11340/2006, which mandates the inclusion of paragraph 11 in article 129 of the CP, concerning offenses in connection with bodily injury, and Law No. 9455/1997, article 1, paragraph 4, of which defines the crime of torture, provide for increased sentences in the event acts are perpetrated against persons with disabilities.

91. Further, article 8 of Law No. 7853/1989 classifies a variety of discriminatory acts against persons with disabilities:

Article 8. The following constitute criminal offenses subject to one (1) to four (4) years' imprisonment and a fine:

I – Refuse, suspend, delay, cancel, or cause to stop, without just cause, the enrollment of a disabled student in any course or degree program in a public or private educational establishment due to such disability;

II – To block, without just cause, access by a disabled person to a public office due to such disability;

III – To deny, without just cause, employment or work to a disabled person due to such disability;

IV – To refuse, delay, or impede hospital admittance or to fail to provide medical and hospital care, when possible, to a disabled person;

V – To fail to fulfill, delay, or hinder, without just cause, execution of a court order issued in a civil case brought in reference to this Law;

VI – To refuse, delay, or omit technical and indispensable data in a civil action filed under this Law, when so requested by the Office of the Public Prosecutor.

92. It is worth referring to specific decision that reflect the Brazilian Judiciary's position on the promotion of equality and non-discrimination, the first in respect of the public examination process and the second regarding a dispute between an employee and a private company:

RMS 18401/PR

Ordinary Petition for a Writ of Mandamus

2004/0077745-2 T6 – Sixth Panel Date of Decision 04/04/2006

Published in the Judicial Gazette of 05/02/2006 p. 390

Ordinary Petition – Writ of Mandamus – Public Examination – Candidate with special needs – Visual Impairment – Reserved openings specified in public exam notice – Candidate passed over by virtue of physical limitation – Unconstitutionality – Petition Granted

1. Setting aside slots in public examination procedures for candidates with special needs is recognized as a legal form of discrimination, pursuant to article 37, sub-section VIII, of the 1988 Brazilian Constitution; article 2, sub-section III (d), of Law No. 7853/89; article 5, paragraph 2, of Law No. 8112/90, and article 37 of Decree No. 3298/99.

2. If the law and the public examination notice specifically set aside slots for candidates with special needs and the respective enforcement authority accepted registration of and administered an objective examination to the candidate with special needs, there are no grounds for refusing selection of such candidate by virtue of a visual impairment.

3. The public service must be equipped with the appropriate technological facilities to enable officials with special needs to perform their activities, pursuant to the principles of equal and full access to public office.

4. Petition granted.

**Ordinary Appeal No. 0110900-82.2008.5.05.0009 Record**

**Appellant (S): Eric Franco Nunes Tavares**

**Respondent (S): C E A Modas Ltda.**

**Rapporteur (A): Judge Maria Adna Aguiar**

Violation of the human dignity of the worker, discrimination by virtue of physical disability. Compensation for moral damages. Deterrent sentence. Discrimination of physically disabled persons in the workplace constitutes prejudice in violation of the principle of equality provided for in article 5 of the Federal Constitution, which must be eradicated, eliminated, combated, with a view to ensuring workers the full exercise of their citizenship. This form of discrimination results in moral damage subject to compensation, the specific amount of which should strive for more than immediate reparation to the victim, but include, in addition, a deterrent component capable of preventing repeated commission of the discriminatory acts in violation of the human dignity of the worker.

### **Article 6 – Women with disabilities**

93. Article 23, chapter II, of the 1988 Federal Constitution states, “The Union, the states, the Federal District, and the municipalities, in common, have the power to provide for health and public assistance, for the protection, and safeguard of handicapped persons.” Brazil has today a series of legal instruments in place to guarantee the rights of persons with disabilities, with particular focus on universal services and benefits, for purposes of meeting their needs and their full incorporation in all spheres of social life. In this sense, women and girls with disabilities are legally guaranteed all the rights and fundamental freedoms on an equal basis with men and boys with disabilities, as well as in relation to girls, boys, women, and men without disabilities.

94. The Second National Plan for Women’s Policies (II Plano Nacional de Políticas para as Mulheres – II PNPM) focuses on priority Government initiatives to ensure rights and improve the quality of life of the full diversity of Brazilian women. The Plan addresses the respect for the rights of women and girls with disabilities manner across all areas of action of the Federal Government, an approach that all the State and Municipal Women’s Policy Plans now under development will have to adopt. Therefore, specific attention is given to persons with disabilities in all women’s policies. Further, this conceptual foundation is reinforced by the fact that the National Women’s Policy (Política Nacional para Mulheres) is based, among other aspects, on the principles of equality and respect for diversity, which apply not only to relations between men and women, but also to the different segments that make up the women’s population in Brazil. Thus, the II National Plan for Women (PNPM II) is designed to defend the rights of all women without distinction and promote gender equality at all levels of social relations.

95. The need to devote specific attention to women with disabilities is laid out clearly in Chapter 1 of the Second National Plan for Women’s Policies titled “Economic Autonomy and Equality in the Workplace with Social Inclusion (Autonomia Econômica e Igualdade no Mundo do Trabalho com Inclusão Social), the first General Objective of which underscores the importance of considering disabilities in the realization women’s economic and financial autonomy: “To promote the economic and financial autonomy of women, based on ethnic-racial, generational, regional, and disability factors.” Chapter 1 also highlights Priority 1.6, specifically, “To promote non-discriminatory working relationships on the basis of gender, race/ethnicity, sexual orientation, generation, or disability, with equal pay and access to leadership positions.”

96. Chapter 2 of the II PNPM is devoted to Inclusive, Non-Sexist, Non-Racist, Non-Homophobic, and Non-Lesbian Phobic Education (Educação Inclusiva, Não Sexista, Não



Racista, Não Homofóbica e Não Lesbofóbica). The Chapter also addresses disabilities in its General Objectives, namely Objective II: “To incorporate the perspectives of gender, race/ethnicity, sexual orientation, generation, persons with disabilities, and respect for diversity in all of its forms in educational policy, with a view to ensuring equality in education.” Similarly, women with disabilities are explicitly cited in Specific Objective VI of the Chapter: “To encourage the participation of women in the fields of science and technology and knowledge production in the fields of gender, gender identity, and sexual orientation, taking into account factors in connection with ethnicity-race, generation, persons with disabilities, and others.” Additionally, Chapter 2 cites this segment of the women’s populations in three Measures (2.1.1, 2.1.2, and 2.1.3) under Priority 2.1: “To promote initial and continuing training for managers and professionals in the field of education in gender equity, race/ethnicity, and recognition of diversity.” Of particular note in Priority 2.4, which refers to the production and dissemination of knowledge in the field of gender, gender identity, sexual orientation, and race/ethnicity at all levels of the educational system, is Measure 2.4.3. Priority 2.6 – “To expand access to and continued attendance in schools by specific women’s groups with low educational levels” – clearly cites the segment composed of women with disabilities in several of the Measures under the responsibility of the Ministry of Education (MEC), in partnership with other sectors of the Federal Government.

97. With regard to health, Chapter 3 of the PNPM II includes among its priorities confronting discrimination against women with disabilities, as well as other categories of women, and attending to their specific needs, through the implementation of the Comprehensive Women’s Health Care service. Measure 3.8.10 of the Chapter proposes – “Developing and distributing Strategic Health Guidelines for women with disabilities” – an initiative under the primary responsibility of the Ministry of Health, in partnership with the SPM, the Secretariat for Human Rights, the Secretariat for the Promotion of Racial Equality, universities, scientific organizations, and women’s and feminist movements. In addition to the goals set out in the PNPM II, the Ministry of Health is tasked with implementing the National Health Policy for Persons with Disabilities (Política Nacional de Saúde da Pessoa com Deficiência), a universal program.

98. With regard to combating violence against women, the PNPM II provides in Specific Objective IV, **Chapter 4**, the following: “To ensure and protect the rights of women in situations of violence, taking into account ethnic and racial, generational, sexual orientation, disability and social inclusion, economic, and regional questions.” Moreover, mechanisms to prevent domestic violence against women are mandated specific laws, namely Law No. 11340/2006 the Maria da Penha Law.

99. Despite the implementation of policies to promote equality between men and women, barriers to the equal inclusion of men and women and discriminatory practices in society persist, reflecting the enduring nature and widespread reach of values rooted in bias and stereotyping. These values constrain the possibilities for broader social inclusion of women in society. Proof of this distortion lies in long-standing wage disparities between men and women. While within the general population women earn 17.2% less than men, among persons with disabilities the difference reaches 28.5%. In 2008, women with disabilities represented only 0.3% of the 39,441,566 formal employment positions in the country. The policies mentioned above reflect the country’s efforts to transform this reality.

## **Article 7 – Children with disabilities**

100. The 2000 Census revealed that there were 24,600,257 people in Brazil with varying degrees of disability, 14% of them between the ages of 0 and 19 years. The percentage is 5% of the total population in this age group. The Census found that 4,267,930 children and

adolescents had incapacitating disabilities, 22% of those between the ages of 0 and 19 years. The total represents 1.4% of the entire population in this age group. The 2010 Census data are still being processed. The final numbers will provide a more accurate picture as to the current number of children and adolescents with disabilities in Brazil today.

101. The Brazilian Government believes that children with disabilities should enjoy all the rights accorded to children and adolescents in general. Accordingly, in line with the applicable international and regional children's human rights instruments, Brazil has endeavored to ensure, through the 1988 Constitution and Law No. 8069/1990 – the Child and Adolescent Statute (*Estatuto da Criança e do Adolescente – ECA*), a system of full protection, inspired on the concept of children and adolescents as subjects with rights at a unique stage of individual development. From the perspective of the Brazilian legal system, children and adolescents have absolute priority to exercise all of the fundamental rights guaranteed to the human person. However, experience has shown that the enactment of these legal principles does not by itself ensure immediate respect for children and young people.

102. In this light, Brazil has adopted measures to improve the implementation of the rights of children and adolescents within the framework of its legal system and institutions. In 1991, it created the National Council for the Rights of the Child and Adolescent (*Conselho Nacional dos Direitos da Criança e do Adolescente – CONANDA*) provided for in the Child and Adolescent Statute to serve as the lead rights advocacy body and managing entity of the National Child and Adolescent Fund (*Fundo Nacional da Criança e do Adolescente*). Through a shared management effort, government and civil society determine the guidelines for the applicable national policies on promoting, protecting, and defending the rights of children and adolescents.

103. The National Secretariat for the Promotion of the Rights of Children and Adolescents (*Secretaria Nacional de Promoção dos Direitos da Criança e do Adolescente – SNPDCA*), a component body of the Secretariat for Human Rights of the Office of the President of the Republic, is tasked with coordinating policies to promote, defend, and guarantee the rights of children and adolescents at the national and inter-ministerial levels, in addition to monitoring compliance with the ECA, so as to ensure the respective human rights are safeguarded and the necessary conditions for their full development established. To ensure implementation of measures to promote, protect, and defend the rights of children and adolescents the “Strengthening of the Rights Guarantee System” (*“Fortalecimento do Sistema de Garantia de Direitos”*) program was established, with a view to effectively executing measures aimed at realizing those rights. The Brazilian government believes that effectuating the Rights Guarantee System requires extensive intervention in the mechanisms currently in place to enforce those rights capable of generating positive day-to-day experiences in respect of citizenship for children and adolescents.

104. The primary purpose of laws such as the recently enacted national adoption law is to offer children the opportunity for family and community life and the right to a proper family capable of protecting them and promoting their full development. Recent laws increasing the sanctions for sex crimes, crimes against the sexual dignity of persons, trafficking for purposes of sexual exploitation, in addition to the statute that intensifies the effort against the production, sale, and distribution of child pornography and criminalizes the acquisition and possession of such material and other acts related to pedophilia on the Internet.

105. The Government has also worked to secure passage of a Bill regulating socio-educational rehabilitation measures in the country. The primary objective to standardize the procedures on application of the procedures by the Judiciary and their execution, with a view to strengthening open regime rehabilitation measures, in accordance with the

principles of brevity and exceptionality underlying the detention sanctions applied to minors.

106. Also of note is the development of national sector plans based on the efforts of inter-sector committees with representatives from various ministries, councils, and international organizations. Brazil has put the following mechanisms in place: the National Socio-Educational Assistance Plan (Plano Nacional de Atendimento Socioeducativo) (2006); the National Plan to Confront Sexual Exploitation (Plano Nacional de Enfrentamento à Exploração Sexual) (2002); the National Plan to Eliminate Child Labor and Protect Adolescent Work (Plano Nacional de Erradicação do Trabalho Infantil e Proteção do Trabalho do Adolescente) (2003); the National Plan on Community Family Living (Plano Nacional de Convivência Familiar Comunitária) (2006); the President's Friend of the Child Plan (Plano Presidente Amigo da Criança) (2004); the National Education Plan (Plano Nacional de Educação) (2000); the National Plan for Public Security with Citizenship (Plano Nacional de Segurança Pública com Cidadania – PRONASCI) (2007); and the Protection Program for Children and Adolescents Threatened with Death (Programa de Proteção a Crianças e Adolescentes Ameaçados de Morte – PPCAAM) (2003), and others.

## **Article 8 – Awareness-raising**

107. With a view to disseminating a culture of inclusion and respect for diversity, through the years the Government has organized workshops, technical councils, seminars, and meetings with resources of the Secretariat for Human Rights of the Office of the President of the Republic (SDH/PR). In addition, 10 texts on promotion of the rights for persons with disabilities were prepared and 60,000 publications on the rights of persons in this segment distributed in conventional and accessible format (Braille, large print, digital platforms). Launched in December 2010, the “History of the Political Movement of Persons with Disabilities in Brazil (“História do Movimento Político das Pessoas com Deficiência no Brasil”) is the most recent publication.

108. The “Accessibility – Follow This Idea” (“Acessibilidade – Siga esta Idéia”) campaign, developed by the National Council on the Rights of Persons with Disabilities (CONADE) and initially launched at the 1<sup>st</sup> National Conference on the Rights of Persons with Disabilities (2006) has been disseminated over a number of public channels and spaces and adopted by the Federal Supreme Court, state and municipal governments, artists, football clubs and players, and public and private enterprises. In 2009, another campaign was rolled out: “The Same in Our Differences – On Behalf of the Inclusion of Persons with Disabilities (“Iguais na Diferença – pela Inclusão das Pessoas com Deficiência”), an initiative tasked to the former Sub-Secretariat for the Promotion of Persons with Disabilities (Subsecretaria Nacional de Promoção dos Direitos da Pessoa com Deficiência, a component of the SDH/PR. The campaign was disseminated in the form of radio spots, full page advertisements in leading national magazines, and a publicity film – the first broadcast on Brazilian TV to include three communication accessibility resources: Brazilian Sign Language – LIBRAS, captions, and audio description.

109. In 2010, the “Accessible City Is Human Rights” (“Cidade Acessível é Direitos Humanos”) campaign was designed to persuade the public to undertake a commitment on behalf of the full participation of persons with disabilities, demonstrating the importance of providing equal opportunities in cities. The effort was also aimed at promoting access to dignified housing composed of universal designs for living spaces; ensuring safe and comfortable urban mobility; and promoting the removal of barriers and obstacles and access to the full range of public policy initiatives.

110. In regard to the measures aimed at giving publicity to the Convention, the Secretariat for Human Rights of the Office of the President of the Republic published three

editions of the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto (a regular version, an edition with comments, and a pocket version). Between the months of October and November 2011 alone, a total of 5,000 copies of the Convention were distributed to public libraries, state and municipal government agencies, non-governmental organizations, and human rights associations and entities. In addition, an electronic version of the Convention is available on the official SDH/PR Web site ([www.direitoshumanos.gov.br](http://www.direitoshumanos.gov.br)) as well as the National Secretariat for the Promotion of Persons with Disabilities site ([www.pessoacomdeficiencia.gov.br](http://www.pessoacomdeficiencia.gov.br)).

## **Article 9 – Accessibility**

111. To ensure persons with disabilities have autonomy on an equal basis with all other persons, the Brazilian State has established measures under constitution and related legal provisions to provide persons with disabilities accessibility to physical space, transportation, and communications. Articles 220, 227, paragraphs 1 and 2, and 244 of the Federal Constitution mandate the following:

Article 220. The manifestation of thought, creation, expression, and information, in any form, process, or medium shall not be subject to restriction of any nature, in accordance with the provisions of this Constitution.

Art. 227. Paragraph 1 – The State shall promote full health assistance programs for children and adolescents, to which end the participation of non-governmental entities shall be allowed, in accordance with the following precepts (...) II – creation of preventive and specialized care programs for persons with physical, sensorial, or mental disabilities, including programs aimed at the social integration of disabled adolescents, through training for specific professions and community life and facilitated access to community facilities and services, by means of the elimination of prejudice and architectural obstacles.

Paragraph 2 – The law shall provide for construction standards for public sites and buildings and for the manufacture of public transportation vehicles, in order to ensure adequate access to persons with disabilities.

Art. 244. Paragraph 2 – The law shall provide for the adaptation of existing public sites and buildings and public transportation vehicles, with a view to guaranteeing adequate access to persons with disabilities, as set forth in article 227, paragraph 2.

112. The following norms regulate the rights provided for in the Constitution:

(a) Law No. 7853/1989, which governs the support to persons with disabilities and their social integration through the National Coordination for the Integration of Persons with Disabilities (Coordenadoria Nacional para Integração da Pessoa Portadora de Deficiência – CORDE, establishes jurisdictional oversight of the segment's collective and diffuse interests, provides for the activities of the Office of the Public Prosecutor, sets forth the related criminal offenses, and establishes other measures;

(b) Laws No. 10048 and 10098/2000, which set out general standards and basic criteria on the promotion of accessibility for persons with disabilities or reduced mobility, and other provisions;

(c) Law No. 10436/2002, governing the Brazilian Sign Language – LIBRAS;

(d) Law No. 11126/2005, which ensure persons with visual impairments who use guide dogs the right to enter and remain with their animals in vehicles and establishments open or provided to the public;

(e) Decree No. 3298/2000, which regulates Law No. 7853 dated October 24, 1989, governs the National Policy on the Integration of Persons with Disabilities (Política Nacional para a Integração da Pessoa Portadora de Deficiência), and consolidates the respective rules on protection, as well as other measures;

(f) Decree No. 5296 dated December 2, 2004, which regulates Law No. 10048 dated November 8, 2000, governing priority assistance to the persons specified therein, and Law No. 10098 dated December 19, 2000, which established general standards and basic criteria for the promotion of accessibility for persons with disabilities or reduced mobility, as well as other measures;

(g) Decree No. 5626/2005, regulating Law No. 10436 dated April 24, de 2002, which provides for the Brazilian Sign Language – LIBRAS, and article 18 of Law No. 10098 dated December 19, 2000.

113. For purposes of promoting accessibility to transportation, norms have been prepared and issued on accessibility to the transportation system, pursuant to Decree No. 5296/2004 (Brazilian Association of Technical Standards – ABNT; National Metrology Council Resolution – CONMETRO; and National Institute of Metrology and Industrial Quality – INMETRO Directives).

114. In respect of the access to assistance technologies,<sup>1</sup> it is important to note the establishment of the Committee on Technical Assistance (Comitê de Ajudas Técnicas), a standing advisory and advocacy body established within the framework of the Secretariat for Human Rights of the Office of the President of the Republic, pursuant to Decree No. 5296/2004 and through Directive No. 142 dated November 16, 2006. The Committee has set forth principles and criteria to govern the development of technical assistance measures, including proposals to train human resources and encourage, within the federal, state, and municipal spheres, the creation of technical assistance Reference Centers. Through 2011, the Committee on Technical Assistance had held six meetings, with a view to evaluate government policies in this area, while a publication on Technological Assistance aimed at administrators, technicians, and social agents was prepared in partnership with UNESCO.

115. Access to the communications for persons with disabilities is ensured through Decree No. 6039/2007, the Universal Goals Plan for Fixed Telephony (Plano de Metas de Universalização da Telefonia Fixa – PMU), a key initiative of the Federal Government to universalize telecommunications services. Developed by the Ministry of Communications, the PMU is implemented through a partnership between the National Secretariat for the Promotion of the Rights of Persons with Disabilities – SNPDP and the National Telecommunications Agency (Agência Nacional de Telecomunicações – ANATEL). Implementation of the PMU will be accomplished with resources of the Universal Telecommunications Services Fund (Fundo de Universalização dos Serviços de Telecomunicações – FUST), created through Federal Law No. 9998 dated August 17, 2000. The Plan includes the following benefits: free installation of a landline at the main offices of the beneficiary institution, supply; implementation and maintenance of equipment to enable the use of specially adapted landlines for hearing impaired persons; and waiver of basic monthly subscription fees, including a monthly minutes allowance. In 2008, a total of 94 institutions engaged in providing assistance to persons with hearing impairments benefited from the plan.

116. In addition, given the importance of accessibility for full realization of the rights of persons with disabilities, the National Plan for the Rights of Persons with Disabilities,

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<sup>1</sup> Article 20-Personal mobility-paragraphs 75-79 of this report.

launched on November 17, 2011, devotes an entire axis to this critical question. The measures provided for will be coordinated and implemented by the Federal Government in partnership with the states and municipalities.

117. The Brazilian Association of Technical Standards (ABNT) is the body with primary responsibility for standardizing technical norms, including in respect of accessibility. The first standard in this area was issued in 1985 (ABNT NBR 9050 – Adaptation of buildings and urban properties to persons with disabilities). Due to the issue’s increasing importance in Brazil, in 1999 ABNT established the Brazilian Committee on Accessibility (Comitê Brasileiro de Acessibilidade – ABNT/CB-40), tasked with developing standards in the field of accessibility, in accordance with universal design principles. Currently made up of four Study Commissions (Buildings and Environment; Transportation with Accessibility; Accessibility in Communications; and Accessibility for Digital Inclusion), the Committee has 14 standards in effect.

118. With regard to the application of provisions establishing mandatory accessibility requirements in public contracts, the National Secretariat of Transportation and Urban Mobility (Secretaria Nacional de Transporte e da Mobilidade Urbana) of the Ministry of Cities issued Normative Rule No. 22 dated May 10, 2010, regulating the Transportation Infrastructure and Urban Mobility Program (Programa de Infraestrutura de Transporte e da Mobilidade Urbana – Pró-Transporte) for the purpose of adapting credit transaction proposals to the provisions, general standards, and basic criteria set out in Decree No. 5296 dated December 2, 2004, governing accessibility for persons with disabilities and reduced mobility.

### **Article 10 – Right to life**

119. Article 5 of the Brazilian Constitution states, “All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms.” As such, the right to life and the right to liberty, as set out in the Convention, are ensured for persons with disabilities. With a view to effectuating these rights, the primary measures undertaken by the State to assure an appropriate standard of life for persons with disabilities are incorporated in the National Plan for the Rights of Persons with Disabilities (Plano Nacional dos Direitos da Pessoa com Deficiência).

120. As will be demonstrated in the response to article 25, governing the right to health, and article 28, in respect of appropriate standard of living and social protection levels, a variety of initiatives have been launched to guarantee respect for the lives of persons with disabilities. In addition, there are no official reports on the arbitrary privation of life of persons with disabilities.

### **Article 11 – Situations of risk and humanitarian emergencies**

121. The civil defense authorities have not yet developed a specific protocol on providing assistance to persons with disabilities in situations of risk, although the Secretariat for Human Rights of the Office of the President of the Republic is currently in the process of preparing a proposed norm in this area. Protective measures are adopted in accordance with demands, to which end equal assistance is recommended. The respective demands are met by the state or municipality, taking into account existing and available programs. In March 2010, the National Civil Defense Secretariat (Secretaria Nacional de Defesa Civil) held the 1<sup>st</sup> National Conference on Civil Defense and Humanitarian Assistance (1<sup>a</sup> Conferência Nacional de Defesa Civil e Assistência Humanitária), at which civil measures were

discussed. A total of 1,495 certified delegates took part in the event. With an 87% majority, the Conference's final plenary session approved a guideline on the inclusion of persons with disabilities, specifically: "Creation of tripartite Civil Defense Deliberative Councils at the three administrative spheres (composed of government, civil society, and civil defense workers) and restructuring and strengthening of existing bodies, with a view to ensuring representation for affected persons and those with special needs and building a more just and democratic society."

122. To ensure emergency humanitarian assistance is distributed with a view to providing access, Contingency Benefits (Benefícios Eventuais) were implemented under the Social Assistance Policy (Política de Assistência Social), supplementary and temporary assistance provided to citizens and family in the event of birth, death, temporary situations of vulnerability or public disasters, as per article 22 of the LOAS. Contingency Benefits are granted in the following cases:

**Birth:** to meet the needs of newborn children; to provide support to mothers in the case of stillbirths and the death of newborns; and to provide support to families in cases of maternal deaths;

**Death:** to provide priority financial assistance for coffins, wakes, and burials; to meet the urgent needs of families to address the risks and vulnerabilities stemming from the death of a provider of family member; to provide reimbursement in the absence of benefits at the time they were needed;

**Temporary Vulnerability:** to address situations of risk, losses, and damages to the integrity of persons and/or families; and

**Public Disasters:** to assist victims of public disasters, with a view to ensuring the preservation and reconstruction of their autonomy.

123. Article 22, paragraph 2, of the LOAS, lays out the duties and responsibilities of the three spheres of government in the provision and regulation of Contingency Benefits, for the purpose of meeting needs stemming from situations of temporary vulnerability and public disasters, with special priority for children, families, the elderly, persons with disabilities, pregnant women, and nursing mothers.:

(a) The states are charged with allocation financial resources to the municipalities for the purpose of contributing to the funding of childbirth and funeral assistance measures based on the criteria established by the State Social Assistance Councils (Conselhos Estaduais de Assistência Social), in accordance with article 13 of Law No. 8742 of 1993. In addition, they are tasked with executing emergency assistance measures in conjunction with the municipalities; and

(b) The Federal District and the municipalities have primary responsibility, pursuant to articles 14 and 15 of Law No. 8742, to allocate resources to covers birth and funeral assistance costs based on the criteria established by the Social Assistance Council of the Federal District and the Municipal Social Assistance Councils, respectively.

124. Through a Decree of February 3, 2011, an Inter-Ministerial Working Group was established, with a view to developing a proposal for a national protocol of guidelines and procedures to ensure full protection to children and adolescents in situations of vulnerability in localities subject to emergencies or public disasters. The draft of the protocol has been finalized and is pending approval by the Office of the President of the Republic. The Working Group will develop additional protocols for other vulnerable segments, including the elderly, persons with disabilities, pregnant women, and nursing mothers.

## **Article 12 – Equal recognition before the law**

125. Equal recognition of persons with disabilities before the law is ensured under article 5 of the Brazilian Federal Constitution, which expressly ensures that all people are equal before the law, without distinction of any nature.

126. Enactment of the Convention under Brazilian domestic law as a constitutional amendment served to raise the discussion on the continued operation of protective and custodial institutions, still provided for in the Brazilian Civil Code (Código Civil). Over time, a consensus has emerged that this type of judicial recourse should be used with appropriate selectivity to prevent abuse and that the State will need to mobilize to provide the support set forth in the Convention, in order to ensure the full exercise of citizenship by persons with disabilities.

## **Article 13 – Access to justice**

127. The right of access to justice provided for in article 13 of the Convention is ensured under article 5, sub-sections XXXV (the law shall not exclude any injury or threat to a right from the consideration of the Judicial Power), XLI (the law shall punish any discrimination which may attempt against fundamental rights and liberties), and LV (litigants, in judicial or administrative processes, as well as defendants in general are ensured of the adversary system and of full defense, with the means and resources inherent thereto) of the Federal Constitution. At the national level, Laws No. 10048/2000 and No. 12.009/2009 ensure priority to legal proceedings in which persons with disabilities are either the authors, respondents, or interested parties. Within the scope of the Judiciary, National Justice Council (Conselho Nacional de Justiça – CNJ) Resolution No. 27/2009 directed the Courts to adopt measures to remove physical, structural, communication, and attitudinal barriers, with a view to promoting full and unrestricted access by persons with disabilities to their facilities and services.

## **Article 14 – Liberty and security of the person**

128. With regard to the right to liberty and security of persons with disabilities, the primary challenge faced in Brazil has centered on the institutionalization of persons with mental disorders. Since the 19th century, care for persons with mental disorders was synonymous with their institutionalization in specialized psychiatric establishments. Beginning in the 1970s, efforts were undertaken to transform the care provided based on reform of walled psychiatric institutions (which became therapeutic communities) and subsequently a model founded on the community as a replacement for the specialized hospital system. The 1988 Federal Constitution established the Unified Health System (SUS), leading to institutional conditions for implementation of new health policies, including in the mental health field.

129. In the 1990s, the Ministry of Health introduced a new mental health policy, which gradually redirected psychiatric assistance resources to a new model based on community services. The implementation of public and territorial mental health services was incentivized,<sup>2</sup> while minimum criteria for adaptation and humanization of the specialized mental hospital system were enacted.

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<sup>2</sup> In addition to the SDH/PR, the Living Without Boundaries includes the participation of the Civil House; the General Secretariat of the Office of the President of the Republic; the Ministries of



Education; Health, Labor and Employment; Social Development and Hunger Alleviations; Sports; Science, Technology, and Innovation; Cities; Finance; Planning; Communications; Social Welfare; and Culture.

One of the tests consists of neonatal screening, commonly referred to as the Guthrie Test. It is based on the analysis of blood samples collected from pricking the newborn's heel. The objective of the test is to identify a variety of diseases that do not manifest themselves or in connection with which the infant shown no symptoms following birth. These diseases are capable of causing irreversible and multiple damage including mental retardation.

Multi-Annual Evaluation Report – 2008/2011, in [www.saude.gov.br](http://www.saude.gov.br)

Mais Saúde Direito de Todos – 2008/2011, 3ª Ed, in [www.saude.gov.br](http://www.saude.gov.br)

Assistance to older persons in situations of social vulnerability and risk and at least partially dependent for purposes of the performance of daily activities, whose families, further, have no on to attend to them during the day have the option of participating in the Day Center modality. The Day Center is a space under inter-sector management, in which older persons receive basic hygienic care and food, participate in physical, community life, socialization, cultural, and leisure activities under the supervision of a multi-disciplinary team.

Of the Actions referred to in the Chapter specifically in connection with women with disabilities, the following bear mention:

**Action 1.1.4** – To conduct awareness raising actions to incentivize the incorporation of women with disabilities in the job market within the hiring quotas for persons with disabilities for companies with more than 100 employees, pursuant to Law No. 8213/91;

**Action 1.6.8** – To conduct national campaigns to combat discrimination based on gender, race/ethnicity, sexual orientation, disability, and HIV positive status in hiring and in the workplace. Secretariat for Women's Policies (Secretaria de Políticas para as Mulheres – SPM). *II National Plan for Women's Policies*, (Brasília: SPM, 2008).

**Action 2.4.3** – To support the knowledge production on gender and sexual orientation, taking into account ethnic-racial and generational questions and the status of persons with disabilities in vocational and technological training. Secretariat for Women's Policies (Secretaria de Políticas para as Mulheres – SPM). *II National Plan for Women's Policies*, (Brasília: SPM, 2008).

**Action 2.6.14** – To expand the access to and permanence in primary education for girls, young women, and women with disabilities through matching of data of the School Census and the Registry of BPC Recipients aged 0-18 for purposes of identifying the lack of access to school;

**Action 2.6.15** – To expand the access to and permanence in primary education for girls, young women, and women with disabilities through identification of the barriers to accessing school, based on gender;

**Action 2.6.16** – To track the access to and permanence of children, young persons, and women with disabilities in primary education;

**Action 2.6.17** – To track the access and permanence of women with disabilities to higher education;

**Action 2.6.18** – To support IFES proposals for addressing situations of discrimination against students with disabilities, promoting the elimination of behavioral, pedagogical, architectural, and communication barriers. Secretariat for Women's Policies (Secretaria de Políticas para as Mulheres – SPM). *II National Plan for Women's Policies*, (Brasília: SPM, 2008).

Ministry of Labor (MTE). Annual Registry of Social Information – RAIS, (Brasília: MTE, 2008).

CPS/FGV processing micro-data of the 2000Census/IBGE.

Brazilian Association of Technical Norms – ABNT: ABNT NBR 14022 – 16/10/2006 – Accessibility in Urban Transportation; ABNT NBR 15570 – 21/04/2008 – Manufacture of Urban Buses; ABNT NBR 15320 – 30/12/2005 – Accessibility in Ground Transportation; ABNT NBR 15450 – 01/12/2006 – Accessibility in Water Transportation. National Metrology Council – CONMETRO: Resolution No. 14 – 20/12/2006 – Ties to NBR 14022 to Decree No. 5296/04; Resolution No. 06 – 16/09/2008 – Ties NBR 15570 to Decree 5296/04; Resolution No. 04 – 28/08/2006 – Ties NBR 15320 to Decree No. 5296/04; Resolution No. 15 – 20/12/2006 – Ties a NBR 15450 to Decree No. 5296/04. National Institute of Metrology and Industrial Quality – INMETRO: Directive No. 260 – 12/07/2007 – RTQ – Adaptation of Urban Buses; Directive No. 168 – 05/06/2008 – RTQ – Adaptation of Inter-State Buses; Directive No. 232 – 30/06/2008 – RTQ – Adaptation of Vessels.

Adaptive Technologies or Technical Aids are products, instruments, equipment, or technology adapted or specially designed to improve the functionality of a person with disabilities or reduced mobility, promoting total or assisted personal autonomy.

The Committee on Adaptive Technologies is composed of experts and representatives of various government agencies involved with the issue of Technical Aids/Adaptive Technologies charged with developing guidelines in this area of knowledge, setting out competencies in the field and performing studies with a view to contributing toward the formulation of standards in respect of Adaptive Technologies.

Territory is not only a geographic designation, but refers to persons, institutions, networks, and settings in which community life takes place.

The Psycho-Social Assistance Centers are open mental health services aimed at providing daily care to persons with severe or persistent mental disorders.

The Residential Therapy Centers are homes located in urban areas aimed at responding to the housing needs of persons with severe mental disorders, released from psychiatric hospitals or asylums, or in situations of vulnerability. In general, residents do not have families.

Comprehensive care facilities are all the night hospitality and accommodation facilities tied to a mental health care network: General Hospital facilities, CAPS III facilities, general emergencies, and Reference Hospital Services for Alcohol and Drug Users.

Brazil. Special Secretariat for Women's Policies. *Balço da Central de Atendimento à Mulher* – 2006 a 2009. Brasília, 2010, pg.

Article 217-A. To have sexual relations or commit any act of a sexual nature with minors under the age of fourteen (14). Penalty – eight (8) to fifteen (15) years' imprisonment.

Paragraph 1. The same penalties shall apply to anyone found to have committed the offenses described in the heading with an individual who, by virtue of a mental illness or disorder lacks the necessary discernment to engage in such act, or who for any other reason does not resist.

Article 218-B. To subject, induce, or recruit into prostitution or any other form of sexual exploitation a minor under the age of eighteen (18) years or an individual who by virtue of mental illness or disorder lacks the necessary discernment to engage in such act, and facilitates, prevents, or hinders such person from ceasing to engage therein:

Penalty – four (4) to ten (10) years' imprisonment.

Article 231. To promote or facilitate entry into the national territory of an individual who engages in prostitution or any other form of sexual exploitation within the national territory, or the departure from the national territory of an individual who engages in such acts abroad.

Penalty – three (3) to eight (8) years' imprisonment.

Paragraph 1. The same penalty shall apply to any individual who sells, recruits, or purchases a person subject to human trafficking, or, aware of said condition, transports, transfers, or houses such person.

Paragraph 2. The penalty shall be increased by one-half where:

I – the victim is a minor under the age of eighteen (18);

II – the victim, by virtue of a mental illness or disorder, lacks the necessary discernment to engage in the act.

MDS by the Numbers (<http://aplicacoes.mds.gov.br/sagi/ascom/index.php?cut=aHR0cDovL2FwbGljYWNVZXMubWRzLmdvdi5ici9zYWdpL2FzY29tL2dlcmFyL2luZGV4LnBocA==&def=v>)

With respect to direct tax incentives, the following bear mention: exemption for passenger vehicles for persons with physical, sight, severe or profound disabilities, or autistics, directly or through their representative (Law No. 8989 of 1995); 100% tax exemption on wheelchairs (Code 87.13 of the Industrialized Goods Tax Schedule – TIPI); 100% tax exemption on orthopedic devices, prosthetic devices, equipment to facilitate hearing for the deaf, and other equipment to intended to compensate for disabilities or illness which are hand carried or attached to persons, or implanted in the body (Code 90.21 of the TIPI); 100% tax exemption on Braille typewriters (Code 8469.00.39 Ex 01 of the TIPI), and Braille printers (Code 8443.32.22 of the TIPI). In addition, Income Tax deductions are provided for individuals or legal entities in connection with amounts spent as donations and sponsorships for sport and para-sport projects approved by the Ministry of Sports (Law No. 11438/2006). For more, go to: <http://www.receita.fazenda.gov.br/aliquotas/downloadarqtipi.htm> Situation Room ([www.saude.gov.br](http://www.saude.gov.br)).

Multi-Annual Plan Evaluation Report – 2008/2011 ([www.saude.gov.br](http://www.saude.gov.br)).

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130. In 2002, the National Policy on Mental Health (Política Nacional de Saúde Mental) was established through Law No. 10216, with a view to consolidating an open and community-based mental health model capable of ensuring the free movement of persons with mental disorders through the respective services, communities, and cities and of offering care on the basis of the resources available at the community level. The model includes a diversity of services and equipment, such as Psycho-Social Assistance Centers (Centros de Atenção Psicossocial – CAPS), Residential Therapy Services (Serviços Residenciais Terapêuticos – SRT), Community Life and Cultural Centers (Centros de Convivência e Cultura), and comprehensive care hospital beds (in General Hospitals and the CAPS III).

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Cartilha – Atenção à Saúde da Pessoa com Deficiência no Sistema Único de Saúde – SUS, DAPES/SAS, 2009.

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Caderno – Direitos Sexuais e Reprodutivos – DAB/SAS, 2008.

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Manual – O Trabalho do Agente Comunitário de Saúde – DAB/SAS, 2009.

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Article prepared by the Technical Health Unit for Persons with Disabilities – DAPES/SAS, for Revista Inclusão, Ministry of Education, 2009.

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Evaluation Report of the Multi-Annual Plan – 2008/2011 ([www.saude.gov.br](http://www.saude.gov.br))

Characteristics of Formal Employment as per the Annual Registry of Social Indicators (Relação Anual de Informações Sociais) – 2008 (<http://portal.mte.gov.br/rais/resultados-definitivos.htm>)

MDS by the Numbers. (<http://aplicacoes.mds.gov.br/sagi/ascom/index.php?cut=aHR0cDovL2FwbGljYWNvZXMubWRzLmdvdj5ici9zYWdpL2FzY29tL2dlcmFyL2luZGV4LnBocA==&def=v>)

Available at [www.turismo.gov.br](http://www.turismo.gov.br).

Inclusion, Gender, and Disabilities – Pedagogical Principles for the Second Half Program (Programa Segundo Tempo) – 2008; Questions of Disability and the Measures of the Second Half Program – Pedagogical Principles of the Second Half Program, from reflection to practice – 2009.

Article 7. The resources of the Ministry of Sport will be allocated for the following purposes:

VIII – to support the participation of persons with disabilities in sports.

Angola, Brazil, Cape Verde, Guinea Bissau, Mozambique, Portugal, São Tomé and Príncipe, and Timor Leste.

131. Through the National Policy on Mental Health, the Brazilian Government strives:

- To reduce in a consensual and programmatic manner low-quality mental health facilities;
- To qualify, expand, and strengthen the out-of-hospital care network made up of the Psycho-Social Assistance Centers (CAPS), the Residential Therapy Services (SRTs), and Psychiatric Units in General Hospitals (UPHG);
- To include mental health measures under the primary care system;
- To implement a comprehensive care network aimed at alcohol and drug users;
- To implement the “Back Home” (“De Volta Para Casa”) Program, through which allowances are provided to patients released from long periods of institutionalization in psychiatric wards;
- To deliver continuous training for human resources in psychiatric reforms;
- To promote the rights of users and families, incentivizing participation in patient care;
- To guarantee dignified and quality care for mentally disordered offenders (moving beyond confined care centered on state-run asylums);
- To evaluate on a continuous basis all psychiatric hospitals through the National Hospital Services Evaluation Program (Programa Nacional de Avaliação dos Serviços Hospitalares – PNASH/Psiquiatria).

132. The key challenges for effective implementation of the policy are the need to consolidate and expand a community based and territorial care network to promote social reintegration and citizenship and the need to increase annual SUS budget appropriations dedicated to mental health. However, a number of advances have been secured in the field of mental health since approval of the National Policy on Mental Health.

133. First, the Back Home Program was implemented, an initiative centered on providing a R\$ 320.00 cost allowance to patients released from long periods of psychiatric institutionalization (more than two consecutive years in psychiatric or custodial hospitals), in addition to assistance in connection with psycho-social rehabilitation, including the return to home life, whether with families, to group homes, or therapeutic residences. The focus is on patients with mental disorders who have been institutionalized for conditions related to psychosis, depression, chemical dependence, and others. In December 2009, there were 537 participating municipalities in the network. Additionally, from its creation in 2003 through June 2008, the initiative benefited 3,454 individuals.

134. In addition, from 2002 to 2007 the National Hospital Services Evaluation Program – PNASH/Psychiatry conducted visits to every public and SUS affiliated psychiatric hospital. The results of the evaluation processes indicated that hospitals faced serious challenges in the delivery of quality of care. The most common problems related to the treatment plans of patients and institutions, the general aspects of care (long periods of institutionalization, high number of patients hospitalized for long periods), and the general aspect of patients (hygiene, footwear, and clothing, among others). Through application of the tool, scores were awarded, which, when cross-matched with the number of hospital beds, enabled classification of psychiatric hospitals in four different groups: high quality care facilities, adequate quality care facilities, establishment requiring upgrades and reviews, and low quality care facilities, referred for decertification by the Ministry of Health, taking into account the necessary precautions to ensure continued assistance to the affected patient populations.

135. Another important initiative is the Annual Hospital Care Restructuring Program within the SUS (Programa Anual de Reestruturação da Assistência Hospitalar no SUS – HRP). The Program’s primary objective to secure a progressive and consensual reduction in hospital beds, ranging from macro-scale hospitals (hospitals with over 600 beds, often city-hospitals with over a thousand beds) and large-scale hospitals (with 240 to 600 psychiatric beds). As such, key components of the Program include reducing the weight on larger hospitals for the delivery of care, given their tendency to offer low or poor quality services, and agreement between SUS administrators, hospitals, and public oversight bodies and agencies, on the planned reduction of beds, while ensuring continued assistance to affected patients. In this light, the thrust of the effort involves managing the changes introduced to health care with a view to ensuring a safe transition process by which the reduction of hospital beds can be planned and monitored through the simultaneous construction of alternative care strategies under the community model. To this end, the Program sets out the maximum and minimum annual permitted reductions in beds for each class of hospitals. All hospitals with more than 200 beds must cut the total by 40 beds every year. Hospitals with 320 to 440 beds may reduce their total number by as much as 80 beds per year, while hospitals with over 440 beds may implement reductions of up to 120 beds per year. Therefore, the goal is to ensure a progressive reduction in the scale of hospitals in order to promote the consolidation of smaller facilities (up to 160 beds) over time.

136. As a result of these mechanisms, in recent years facilities of extremely poor quality have been eliminated, while the profile psychiatric establishment has changed. In 2002, only 24% of psychiatric beds were located in small-scale hospitals. In 2007, that figure has risen to 44%.

137. In 2002, the Ministry of Health launched the Permanent Human Resources Training Program for Psychiatric Reform (Programa Permanente de Formação de Recursos Humanos para a Reforma Psiquiátrica). The Program’s measures are provided below:

- To incentivize, support, and fund the implementation of mental health training centers in the public health system through agreements established with the participation of training institutes (in particular federal universities), municipalities, and states. There are 21 Regional Mental Health Training Centers for the Public Health System (Núcleos Regionais de Formação em Saúde Mental para a Rede Pública) engaged in administering specialization and retraining course programs in mental health for personnel of the CAPS primary care system. There are 29 specialization courses in mental health and 74 capacity building programs in mental health and alcohol and drug use currently operating in Brazil;
- To stimulate the Clinical-Institutional Supervision of CAPS through public calls for CAPS Qualification Projects. From the initiative’s creation in 2005 through October 2008, a total of 367 services distributed throughout Brazil received financial transfers for the Program’s development;
- To provide support to Multi-Profession Mental Health Residency Programs (Programas de Residência Multiprofissional em Saúde Mental). There are currently three programs in operation in Bahia, Rio Grande do Sul, and Rio de Janeiro. Additionally, the first residency program in psychiatry executed through a municipal mental health care system is now in place, the Psychiatry Medical Residency of the Municipality of Sobral, Ceará (Residência Médica em Psiquiatria do município de Sobral). The effort is supported by the Ministry of Health, in addition to public universities;
- To foster and support projects to accelerate and consolidate the reorientation of mental health care, in 2008, the Mental Health School of Rio de Janeiro was inaugurated through an inter-institutional cooperation initiative between the Ministry

of Health, the Rio de Janeiro Municipal Government, and the Federal University of Rio de Janeiro. The school will train new professional staff and deliver continuing education to workers in the Rio de Janeiro state and municipal public mental health system.

### **Article 15 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

138. Article 5, sub-section III, of the Brazilian Constitution states that “no one shall be submitted to torture or to inhuman or degrading treatment.” The prohibition of torture is regulated by Law No. 9455/97, which provides for increasing the sentence for the related offenses by one-sixth (1/6) to one-third (1/3), where the victim is a person with a disability. In addition, a full 14 states and the Federal District have acceded to the Integrated Action Plan to Prevent and Combat Torture (Ações Integradas de Prevenção e Combate à Tortura) approved in 2006, while seminars and capacity building programs have been offered not only to help experts identify cases of torture, but to train representatives of the Office of the Public Prosecutor and public advocacy units in classifying the offense traditionally defined as bodily injury as torture.

139. However, numerous complaints of torture and mistreatment continue to be filed against custodial and psychiatric hospitals and therapeutic communities. With a view to combating these practices, the Federal Government submitted a bill to the National Congress to implement the National System to Prevent and Combat Torture (Sistema Nacional de Prevenção e Combate à Tortura, which includes the creation of the National Committee and National Mechanism on Preventing and Combating Torture (Comitê Nacional e do Mecanismo Nacional de Prevenção e Combate à Tortura), pursuant to the Optional Protocol to the Convention against Torture. The Mechanism will be composed of independent experts with full legal and political powers to monitor detention facilities throughout the country.

140. With regard to children and adolescent, the principles set out in article 15 of the Convention are guaranteed under article 227 of the Federal Constitution, which requires families, society, and the State to safeguard children and adolescents from all forms of negligence, exploitation, violence, cruelty, and oppression.

141. Finally, the use of persons for scientific or medical experiments without their consent is not permitted in Brazil, in accordance with the principles of the 1988 Federal Constitution.

### **Article 16 – Freedom from exploitation, violence and abuse**

142. Law No. 11340 dated August 7, 2006, more commonly referred to as the Maria da Penha Law, established mechanisms to prevent domestic and family violence against women, provided for the establishment of Special Courts on Domestic and Family Violence against Women, and amended the Brazilian Penal Code of Procedure, the Brazilian Penal Code, and the Law On Sentence Execution (Lei de Execução Penal) Adoption of the Maria da Penha Law represented a major stride in protecting women from violence, including women with disabilities. In addition, in 2005 the Women’s Assistance Hotline – Dial 180 (Central de Atendimento à Mulher – Ligue 180) was established to serve as a monitoring mechanism and provide women in situations of violence a free channel through which to enter complaints. From 2006 through 2009, a total of 923,878 calls were received, an 1,890% increase in the number of information requests and complaints in relation to the

Hotline's first year of operation. Unfortunately, disaggregated data on assistance and accessibility information in connection with women with disabilities are not available.

143. In regard to the protection of children, the Child and Adolescent Statute (ECA) was amended to provide that "anyone engaged in corrupting or facilitating the corruption of a minor under the age of eighteen (18) years, for the purpose of committing with, or inducing, such minor to commit a criminal offense, shall be subject to a penalty of one (1) to four (4) years' imprisonment." Similarly, paragraph 1 prescribes the penalties set forth in the heading of the respective article for individuals who commit the criminal offenses therein established through electronic media, including Internet chat rooms. Further, as with article 15 the provisions set out in article 16 of the Convention are provided for in article 227 of the Federal Constitution.

144. Of particular significance were the amendments introduced to the "Crimes against Good Customs" section of the Brazilian Penal Code through Law No. 12015 of 2009, by which sexual offenses against victims suffering from an illness or mental disorders are subject to increased sentences.

145. In addition to the penalties set forth in the applicable legislation for the purpose of strengthening law enforcement, the State also provides assistance to the victims of exploitation, violence, and abuse, and to their families, ensuring appropriate Social Assistance coverage. Within the framework of the Special Social Protection (Proteção Social Especial – PSE) regime, specialized services of medium or high complexity are provided to families and individuals whose rights have been violated and/or whose ties to the family and community have been broke or weakened. To this end, socio-family assistance strategies are applied to rebuild the family group and develop new moral and affective references, with a view to strengthening the capacity of families to perform their basic protective role and foster the ability for self-organization and autonomy. In this light, the Specialized Protection and Assistance Service for Families and Individuals (Serviço de Proteção e Atendimento Especializado a Famílias e Indivíduos – PAEFI), established under the SUAS, is intended to operate as a "support, guidance, monitoring service for families with one or more members whose rights are at risk or have been violated, including assistance and guidance aimed at promoting rights, preserving and strengthening family, community, and social ties, and strengthening the protective role of families in relation to the set of conditions which render the respective family members vulnerable and/or subject them to situations of personal or social risk." Assistance is based on the respect for the heterogeneity, potential, values, beliefs, and identifies of families. The service articulates with then activities and assistance provided to families through other socio-assistance initiatives, public policies, and agencies of the Rights Guarantee System (Sistema de Garantia de Direitos). It provides for immediate assistance and necessary arrangements to ensure the inclusion of families and their members under socio-assistance and/or income transfer programs, with a view to qualifying intervention measures and restoring rights.

146. In 2010, the SDH/PR expanded the assistance modules of the Human Rights Hotline (Disque Direitos Humanos – Disque 100) to include reporting of human rights violations against homeless persons, the elderly, LGBT (lesbian, gay, bisexual, transvestite, and transgender), and persons with disabilities. The Human Rights Hotline serves, in addition, as an information and guidance channel on the diversity of measures, programs, and campaigns, as well as human rights assistance, protection, advocacy, and liability services, at the three levels of government (federal, state, and municipal). Complaints and information requests are registered and referred to the responsible agencies. Through the mechanism, persons with disabilities are ensured a channel through which to enter complaints and receive information on preventing and combating exploitation, violence, and abuse.

### **Article 17 – Protecting the integrity of the person**

147. The systematic measures adopted to fulfill the provisions of the Convention include Law No. 12033 of 2009, which amends the sole paragraph of article 145 of the Brazilian Penal Code, transforming a criminal action into a conditions public action in the event of slander consisting in the use of elements relating to race, color, ethnicity, origin, or status as an elderly person or as a person with a disability.

148. Also warranting mention are Law No. 11520 of September 18, 2007, provides for grant of special benefits for persons affected by leprosy and subjected to compulsory isolation or internment, and Law No. 12190 of 2010, which mandates compensation for moral damages to persons with disabilities in connection with the use of thalidomide.

### **Article 18 – Liberty of movement and nationality**

149. In Brazil, all children Born must be registered, irrespective of disability. The Chamber of Deputies is currently considering Bill No. 5022 of 2009, submitted by the Executive Branch, which requires the issuance of a Certificate of Live Birth (Certidão de Nascimento Vivo – DNV) by the health professional with primary responsibility for providing prenatal, childbirth, or newborn care. The document was instituted through Law No. 6015 of 1973. In addition to the DNV, in 2007 the Brazilian Government created the Agenda to Eliminate the Under Registration of Births (Agenda de Erradicação do Subregistro Civil de Nascimento). In that same year the “More Northeast and More Legal Amazonia Commitment for Citizenship” (“Compromisso Mais Nordeste e Mais Amazônia Legal pela Cidadania”) was launched, the key measures of which were the implementation of birth certificate units in maternity wards or health establishments engaged in providing childbirth services. It should be noted that Brazil is on the verge of securing eradication of the under registration of births, as the current rate stands at 8.2% and official eradication is classified as a rate of 5% or less. In 2007, under registration was nearly 13%.

150. With regard to the liberty of movement, Brazil does not require a specific visa for persons with disabilities, who may enter or leave the country freely, pursuant to the applicable immigration laws.

### **Article 19 – Living independently and being included in the community**

151. Law No. 12319 dated September 1, 2010, signaled an important step forward by regulating the LIBRAS translation and interpretation profession, specifically through inclusion of the following duties: I – to ensure communication between the hearing impaired and the general population, the hearing impaired and the sight and hearing impaired, the sight and hearing impaired and the general population in oral language and vice-versa; II – to interpret in Brazilian Sign Language – Portuguese Language the didactic-pedagogical and cultural activities offered in learning establishments at the primary, secondary, and higher education levels, with a view to ensuring access to the respective curricular content; III – to engage in selection procedures for educational programs at learning institutions and public examination processes; and IV – to provide support to accessibility to the services and end activities offered by learning institutions and public agencies and organizations.

152. To ensure independent living for persons with disabilities, the Special Protection Service for Persons with Disabilities, Older Persons, and Their Families (Serviço de Proteção Social Especial para Pessoas com Deficiência, Idosos e suas Famílias) offers persons with disabilities and the elderly with a certain level of dependence whose



limitations have been exacerbated by rights violations, including: image exploitation, isolation, confinement, discriminatory and prejudiced attitudes within the family, absence of appropriate care by caregivers, high stress levels of caregivers, devaluing of the potential/capacity of the persons, and other which have the effect of increasing dependence and undermining the development of autonomy. Through September 2011, 178,102 persons with disabilities and older persons had benefited from the service and received resource allocations of R\$ 58,061,047.00. The purpose of the service is to promote autonomy, social inclusion, and improved quality of life for participants. The measures undertaken by staff members will always be guided by recognition of the potential of families and caregivers, acceptance and valuing of diversity, and reduction of the burden placed on caregivers stemming from the demands of delivering daily care.

153. The related measures are planned by the municipalities and the Federal District, in accordance with the vulnerabilities and demands identified by the service. Services should be delivered in the user's place of residence, day centers, and Specialized Assistance Reference Centers (CREAS) or CREAS affiliated Units. The work must be systematized and planned through the development of individual and/or family assistance plans; social surveys; socioeconomic analyses; personal care; development of family, group, and social life; access to personal documentation; support to the protective role of families; mobilization of extended or expanded families; mobilization and strengthening of social life and networks; and mobilization for the exercise of citizenship. In 2010, the Department of Special Social Protection (Departamento de Proteção Social Especial) developed a set of activities, with the assistance of expert Professional consultants, aimed at formulating technical guidance and methodological outlines for the Special Social Protection Service for Persons with Disabilities and Older Persons and Their Families. The purpose of these contributions is to adapt special social protection service offerings of medium complexity for persons with disabilities to the National Socio-Assistance Services Classification System (Tipificação Nacional de Serviços Sócio-assistenciais) approved through CNAS Resolution No. 109 of November 11, 2009. In addition, an international cooperation initiative between Brazil and Spain will contribute to enhancing current guidelines in connection with the related services.

154. The Institutional Assistance Service for Youth and Adults with Disabilities (Serviço de Acolhimento Institucional para Jovens e Adultos com Deficiência) is a special social protection initiative intended to prioritize the restructuring of shelter and residential services for individuals deprived, for a number of factors, of family protection and care, through the establishment of new modalities of care. Brazil has a long history of shelters and group residential establishments. Traditionally, children, adolescents, persons with disabilities, and older persons assigned to institutions for the purpose of protecting them or removing them from social and family life were placed in large-scale establishments for prolonged periods, that is in spaces designed to serve a large number of persons, the majority of whom remained for extended periods of time – sometimes their entire lives. These institutions are commonly referred to as orphanages, boarding schools, educational establishment, homes, among others. Yet, a need was identified to review the care historically provided to persons with disabilities, marked, often times, by the violation of their rights, rather than their restoral, ultimately serving as instruments through which to segregate this population segment. In this light, CNAS Resolution No. 109 dated November 11, 2009 – National Classification of Socio-Assistance Services (Tipificação Nacional de Serviços Sócio-assistenciais) – was issued to introduce a new paradigm to shelter and residential service care, requiring that care should be personalized and delivered in small groups and encourage the participation of the family and the community as well as the use of equipment and services available in the local community. Services should operate within a unit embedded in the community and include residential characteristics, a comfortable and safe environment, and adequate physical infrastructure, with a view to fostering

relations more closely resembling those found in the family environment. Buildings should be organized to comply with existing regulations and meet the needs of users, ensuring proper living conditions, hygiene, health, safety, accessibility, and privacy. Finally, the effort should contribute to the progressive consolidation of autonomy, social inclusion, and the development of capacities to adapt to day-to-day life.

155. It should be noted that the Ministry of Social Development and Hunger Alleviation – MDS is developing a handbook of technical guidelines on residential care services for young people and adults with disabilities under the Inclusive Residences (Residências Inclusivas) modality. The handbook will include content on the design, management, principles and foundations, methodological outline, and parameters of service operation, in addition to interfacing and articulating with other services of the social assistance network, and public and rights defense policy initiatives. The document will aim to guide and support states, municipalities, and the Federal District in the establishment and implementation of institutional care services for youth and adults with disabilities under the Inclusive Residences modality, based on the National Classification of Social Assistance Services.

## **Article 20 – Personal mobility**

156. In Brazil, there is a series of initiatives in place to promote personal mobility, including the as the Technical Assistance Committee (Comitê de Ajudas Técnicas), a component of the National Secretariat for the Promotion of the Rights of Persons with Disabilities of the Secretariat for Human Rights of the Office of the Presidency, and the technology assistance catalog of the Department of Science and Technology for Social Inclusion (Secretaria de Ciência e Tecnologia para Inclusão Social do Ministério) under the Ministry of Science and Technology.

157. In addition, of note among the measures contemplated in the National Plan for the Rights of Persons with Disabilities is the Guide Dog Project (Projeto Cães-guia), the aim of which is to implement technology centers to provide capacity building to guide dog trainers and instructors and guide dog training center. The Plan provides for the implementation of five centers distribute in each of Brazil's major regions. The first is scheduled to be open in 2012 in Balneário Camboriú, Santa Catarina. In 2013, an additional two units will be delivered and in 2014, two more. In 2007, the Government enacted Law No. 11126 dated June 27, 2005, which ensures visually impaired persons the right to enter public and private vehicles and establishments open to the public.

158. It is important to recognize that in Brazil persons with disabilities encounter numerous obstacles to acquire equipment essential to their personal mobility. As such, the National Plan for the Rights of Persons with Disabilities provides for federal tax rebates on a variety of adaptive technology products and equipment. Through 2013, the respective tax cuts are forecast to reach approximately R\$ 609,840,000.00.

159. The Plan will also provide for the extension of micro-credit through the Bank of Brazil (Banco do Brasil) for the acquisition of adaptive technology products in an amount up to R\$ 25,000.00, at an interest rate of 0.64% per month. All other financial institutions may offer credit lines using resources stemming from the compulsory allocation of 2% of cash deposits to micro-credit for consumption purposes. The respective credit lines will be subject to different interest charges depending on the individual profile of borrowers. The SDH/PR and the Ministry of Science, Technology, and Innovation (MCTI) will issue an Inter-Ministerial Directive setting out the products that may be acquired through the credit line.

160. In addition, the Plan establishes a National Program for Adaptive Technology (Programa Nacional de Tecnologia Assistiva), through which \$ 60 million in credit lines will be available in the form of non-reimbursable funds in the period 2012-2014 to fund projects submitted by consortia of universities or other Science and Technology Institutions, as well as companies engaged in the adaptive technology (AT) field, and R\$ 90 million in subsidized credit, at an interest of 4% per year between 2012 and 2014, for innovation projects undertaken by firms in the AT sector. Further, the National Center for Excellence in Adaptive Technology (Centro Nacional de Referência em Tecnologia Assistiva) will be established, composed of 20 research centers implemented in public universities for purposes of developing strategic technologies, with an emphasis on prevention, rehabilitation, and accessibility, while a MCT&I research unit based in Campinas, São Paulo will be set up at the Renato Archer Center for Information Technology. Finally, the Program launched a virtual catalogue of more than 1,200 adaptive technology products available in Brazil (<http://assistiva.mct.gov.br>). The goal is to compensate for the lack of information on AT products for industry professionals, persons with disabilities, the elderly, and their families.

161. Another important measure is Inter-Ministerial Directive No. 003/2001, which regulates the distribution of free fare passes to persons with proven disabilities on the Inter-State Public Transportation System, pursuant to article 1 of Decree No. 3691 dated December 19, 2000. The measure ensures free transportation for persons with disabilities on inter-state passenger transportation services.

## **Article 21 – Freedom of expression and opinion, and access to information**

162. The Federal Constitution expressly prohibits the existence of any obstacles or impediments to information. For its part, Law No. 10098/2000 provides for the basic criteria to promote the accessibility for persons with disabilities through the removal of barriers and obstacles to communication, with a view to ensure equal opportunity. Prior to signing of the Convention, the Ministry of Communications approved Complementary Rule No. 01/2006, through Directive No. 310 dated June 27, 2006, mandating accessibility resources in all broadcasting and retransmission services.

163. Pursuant to the applicable regulation, accessibility refers to the means for safe and autonomous use of communication and information services, devices, systems, and mediums by persons with hearing, visual, and intellectual impairments. The following resources were established for purpose of ensuring effective implementation of the Standard:

(a) **Hide Captions:** means the transcription, in Portuguese, of dialogue, sound effects, environmental sounds, and other information that persons with hearing impairments could not otherwise perceive or understand. The system is broadcast on Vertical Blanking Interval – VBI 21;

(b) **Audio Description:** means the full Portuguese narration with the original sound of the audiovisual work, containing description of visual sounds and elements and any additional relevant information for enabling better understanding of such work by persons with visual or intellectual impairment. The system is broadcast on the Secondary Audio Program – SAP, in the event the program is spoken exclusively in Portuguese;

(c) **Dubbing:** means translation of a program originally spoken in a foreign language through substitution of the original language with Portuguese, duly synchronized in time, intonation, lip movements of the characters in a scene, with a view to enabling comprehension of the content by persons with visual impairments and persons with

difficulties in reading translated subtitles. The system is broadcast on the Secondary Audio System – SAP;

(d) **LIBRAS Window**; means a space reserved on video for information interpreted into Brazilian Sign Language (LIBRAS).

164. Based on the schedule established by the Standard, broadcasting and retransmission service providers will have a period of 12 months, as of July 1, 2010, to include at least two hours of weekly programming offering accessibility features. A 10-year target has been established for all digital broadcast stations in Brazil to transmit at least 20 hours of accessible programming every week. Legal entities with broadcasting licenses failing to comply with the Standard will be subject the penalties provided for in the Brazilian Telecommunications Code (Código Brasileiro de Telecomunicações).

165. With regard to Internet access for persons with disabilities, in 2005 the Ministry of Planning, Budget, and Management established the E-Government Accessibility Model (Modelo de Acessibilidade de Governo Eletrônico – e-Mag), mandating its use by all members of the Federal Executive Branch through Directive No. 3 dated May 7, 2007. The purpose of the model is to enable universal access to virtual content on Federal Government portals, sites, and public services. In addition, measures have been adopted to improve the access of persons with disabilities to virtual environments, including the Site Accessibility Evaluator and Simulator (Avaliador e Simulador de Acessibilidade de Sítios – ASES) and two checklists for the performance of manual accessibility evaluations, one for developers and another for blind persons, both available at the E-Government Portal ([www.governoeletronico.gov.br](http://www.governoeletronico.gov.br)).

## **Article 22 – Respect for privacy**

166. Article 5, sub-section X, of the Federal Constitutions safeguards the right to intimacy and private life. The objective is to preserve each individual’s freedom to bar strangers from interfering in the private and family life, as well as prevent them from accessing information on the privacy of other individuals. The provision also prohibits the disclosure of personal information, including medical information, as well as information on existential matters. As such, information on philosophical, political, or religious beliefs, party and union affiliation, nor on the private lives and personal intimacy of individuals, may be subject to registrations, except where such information is part of a non-individualized statistical process.

## **Article 23 – Respect for home and the family**

167. Under Brazilian law, there are no impediments to the right of persons with disabilities from marrying and building families based on the principle of free and full consent. Similarly, disabled persons have equal access to family planning, assisted reproduction, and adoption or foster home programs for children in their custody.

## **Article 24 – Education**

168. The right to education for all people is recognized by the Brazilian State, which provides for an inclusive educational system at all levels based on the principles of equal opportunity and pursuant to the following constitutional provisions:

Article 205. Education, which is the right of all and duty of the State and of the family, shall be promoted and fostered with the cooperation of society, with a view

to the full development of the person, his preparation for the exercise of citizenship and his qualification for work.

Article 206. Education shall be provided on the basis of the following principles:

I – Equal conditions of access and permanence in school.

Article 208. The duty of the State towards education shall be fulfilled by ensuring the following:

III – Specialized schooling for the handicapped, preferably in the regular school system.

Paragraph 2. The competent authority shall be liable for the failure of the Government to provide compulsory education or for the irregular provision of education.

169. For its part, Chapter V of Law No. 9394 dated December 20, 1996, governing the directives and bases of the national education system, establishes the purpose of Special Education:

#### CHAPTER V

##### Special Education

Article 58. For the purposes of this Law, special education means the modality of education offered preferentially in the regular school system for special needs students.

Paragraph 1. Specialized support services will be provided in regular schools, where needed, to meet the specific needs of special education students.

Paragraph 2. Services will be provided through specialized classes, schools, or programs, based on the specific conditions of students, where their integration in regular classes is not feasible.

Paragraph 3. The delivery of special education, a constitutional duty of the State, begins in the 0-6 age range during pre-school education.

Article 59. Learning systems shall ensure special needs students:

I – Specific curricula, methods, techniques, educational resources, and organization to meet their needs;

II – Specific completion procedures for those unable to achieve the level required for concluding primary education by virtue of disabilities and accelerated education program completion for gifted students;

III – Instructors with the requisite qualifications from secondary or higher education institutions to provide specialized education services, as well as instructors in the general education system with the necessary capacities to integrate students in regular classes;

IV – Special education for work, with a view to the effective integration of individuals in social life, including through provision of the appropriate conditions for those without the requisite capacities to enter the competitive job market by means of coordinated action among the pertinent official agencies and for those demonstrating special artistic, intellectual, or motor coordination abilities;

V – Equal access to the benefits of the available supplementary social programs for the respective grade level of the regular education system.

Article 60. Educational enforcement and standards agencies shall establish the criteria governing the characterization of specialized not-for-profit institutions engaged exclusively in the delivery of special education services for the purpose of the allocation of technical and financial support by the Government.

Sole Paragraph. The Government shall adopt, preferentially, the expansion of services to special needs services within the regular school system, irrespective of the support provided by the institutions provided for in this article.

170. Also of note in Law No. 8069 dated July 13, 1990, governing the Child and Adolescent Statutes, in particular article 54:

Article 54. "The State has the duty to assure children and adolescents:

III – Specialized educational assistance to those with disabilities, preferentially within the regular school system."

171. Article 4 of Law No. 10436 of April 24, 2002, which provides for the Brazilian Sign Language – LIBRAS, requires that the federal, state, municipal and Federal District school systems must include Brazilian Sign Language – LIBRAS in secondary-level and higher education Special Education, Speech Therapy and, teaching training programs, as an integral part of part National Curriculum Parameters – PCNs (Parâmetros Curriculares Nacionais – PCNs), pursuant to law.

172. With respect to the measures adopted to ensure all children with disabilities have access to pre-school primary, secondary, and higher, the following initiatives warrant mention:

(a) The National Policy on Special Education from the Perspective of Inclusive Education (Política Nacional de Educação Especial na Perspectiva da Educação Inclusiva) of the Education (MEC), approved in 2008, defines special education as a cross-cutting modality of the respective levels, stages, and modalities through which resources, services, and specialized educational assistance are provided, ensuring enrollment of students with disabilities and developmental disorders and highly ability/gifted students in regular classes of the schools system and the delivery of specialized supplementary educational assistance;

(b) Decree No. 6571/2008, which provides for funding of Specialized Educational Assistance to the target special education student population matriculated in the regular school system;

(c) Legislative Decree No. 186/2008 and Decree No 6949/2009, through which the Convention on the Rights of Persons with Disabilities are ratified as constitutional amendments;

(d) National Education Council Resolution No. 04/2009, governing the delivery of specialized educational assistance as a supplementary component to regular education and part of the pedagogical project of schools;

(e) The Continuing Benefits Program (Programa do Benefício de Prestação Continuada – BPC) in School, an inter-ministerial measure to enable low income recipients of the Continuing Social Assistance Benefit (Benefício da Prestação Continuada da Assistência Social) with disabilities between the ages of 0 and 18 to access and stay in school. The measures adopted identify barriers (architectural, attitudinal, access to public services that prevent school attendance. In the program's first phase beginning in 2008, the 26 states, the Federal District, and 2,622 municipalities (including every state capital city) adhered to the initiative, enabling monitoring of 232,000 recipients. The second phase, launched in September 2011, will expand the Program's coverage. The goal is to reach 378,000 children and adolescents with disabilities (70% of recipients) enrolled in the school system in 2014.

173. These measures have led to advances in regular education and organization of the school system. According to the Second School Census of the National Institute for Educational Studies and Research (Censo Escolar do Instituto Nacional de Estudos e Pesquisas Educacionais – INEP/MEC), in 2006 students of the special education system enrolled in regular classes of the school system represented 46.4% of the total, while in 2009 they accounted for 60.5%. With respect to public school enrollment, in 2006 special education students enrolled in the public school system corresponded to 63% of all special education students and 71% in 2009.

174. The data on the number of boys and girls with disabilities in pre-school education programs indicate a 10% rise in enrollment in 2010 in relation to 2009, the product of the inclusion of students with disabilities in the regular school system. With the increase in the number of students in regular schools, enrollment levels in special education schools are falling, signaling progress in the effort to include this population segment in the basic education system. Of the total number of students with disabilities in the pre-childhood education system, 10,864 boys (56.9%) and 8,216 girls (43.1%) with disabilities were enrolled in day care centers and 32,835 boys (59%) and 55,699 girls (41%) disabilities were matriculated in pre-schools.

175. The data indicate that Brazil has experienced a veritable revolution in special education, bringing students previously enrolled in specialized schools to the heart of the regular education system, in all of its modalities. However, it is important to recognize that challenges in the effort to ensure inclusion persist. In this light, the State has developed a number of initiatives to expand the right of persons with disabilities to education.

176. With regard to significant existing differences in respect of the different levels of education and policies and laws aimed at eliminating those differences, the INEP/MEC/2009 School Census found that enrollment of the special education target segment in pre-childhood education stood at 74,779, revealing a difference in relation to other educational levels, to the extent enrollment is not compulsory for this educational stage, as it is for children 04 to 17 years of age. With a view to eliminating the difference the following instruments have been adopted:

(a) The National Fund for the Development of Basic Education and Valuing of Teachers (Fundo Nacional para o Desenvolvimento da Educação Básica e Valorização do Magistério – FUNDEB/2007), which expands the funding previously restricted to primary education to pre-childhood, secondary, and Youth and Adult Education (Educação de Jovens e Adultos – EJA) programs;

(b) Decree No. 6571/2008, which provides for double FUNDEB funding for special education students, requiring the computation of enrollment in the regular school system and special education system for all stages and modalities;

(c) Constitution Amendment No. 59/2009, which mandated compulsory education for all children 04-17 years of age by 2006, ensuring access by law to free and compulsory pre-school education;

(d) The National Policy on Special Education from the Perspective of Inclusive Education, which defines special education as a cross-cutting modality at all levels, stages, and modalities of the education system, from pre-childhood education through higher education;

(e) CNE/CEB Resolution No. 4, which institutes Operational Guidelines for the Delivery of Specialized Education in the Basic Education System, with a view to the incorporation of the respective Pedagogical Policy Project in regulating schools at the various educational stages and modalities.

177. Despite the progress achieved, many children and adolescents with disabilities continue to be barred from physical access to schools. Data of the PNE 2004-2006 evaluation reveal that some schools did not even have restrooms adapted for students with disabilities. In 2005, for example, only 4.5% of public schools had adequate facilities and walkways for students with disabilities. In an effort to correct the problem a number of measures have been adopted to ensure that schools and educational materials are accessible and offer reasonable adaptations and support for persons with disabilities, in order to ensure they receive an effective education and are provided full inclusion. To this end, the following bear mention:

(a) The Program on Implementation of Multifunctional Rooms (Programa de Implantação de Salas de Recursos Multifuncionais) developed by the Secretariat for Special Education of the Ministry of Education, through which public education computer equipment, furniture, textbooks, pedagogical materials, and accessibility resources are provided to enable the participation of students in the regular school. In 2010, a total of 24,301 multifunctional facilities were delivered, encompassing 42% of all public schools with special education students distributed across 83% of all Brazilian municipalities;

(b) Programs for the distribution of didactic and para-didactic materials by the National Educational Development Fund (Fundo Nacional de Desenvolvimento Educacional – FNDE), which includes measures to ensure accessibility through the distribution of books in accessible digital format – Mecdaisy, the distribution of books in Braille, the distribution of books and dictionaries in LIBRAS, and the provision of laptops with accessibility interfaces for blind students for late primary education, secondary education, EJA, and vocational training programs;

(c) The Accessible School Program (Programa Escola Acessível), which provides for accessibility measures through the delivery of adaptive technologies and architectural adaptations;

(d) Decree No. 7084/2010, governing textbook programs and the adoption of mechanisms to assure accessibility for students and educators with disabilities in public schools.

178. With regard to the availability of training in Braille, sign language, augmentative and alternative communication, mobility, and other systems for children, adults, and educators with specific needs, the measures adopted to promote the linguistic identity of deaf persons and to ensure that education is provided in all languages, form, and means of communication and in appropriate environments, the following efforts deserve special note:

(a) Instruction in Braille, LIBRAS, Augmentative and Alternative Communications, the use of adaptive assistance technologies, and accessible computer systems is provided through the specialized education system in multifunctional facilities as a complement to regular schooling;

(b) The Multifunctional Rooms include the following resources: Braille printer, Braille typewriter; Braille desktop computers and keyboards; pressure trigger; laptops with accessibility interface for blind students; scanners; electronic magnifier; manual magnifier; pedagogical games in relief, Braille, and LIBRAS; AAC software; Soroban; reglet; puncher; inclined place; and others;

(c) The Continuing Training Program for Special Education Teachers (Programa de Formação Continuada de Professores na Educação Especial) offers specialization and training for special education assistance. Through 2010, the Program had trained 150,000 educators;

(d) The development of undergraduate Letters/LIBRAS and Letters/LIBRAS Translation and Interpretation/Portuguese Language programs;



(e) The National Certification Program for Proficiency in LIBRAS Instruction (Programa Nacional de Certificação da Proficiência para o Ensino de Libras e para a Tradução e Interpretação de Libras – PROLIBRAS), an initiative executed annually in the 27 states of the Union;

(f) Training for educators at the 55 production centers of accessible books in the use of the Mecdaisy solution for digital books;

(g) The delivery of large-scale Braille printers, computer equipment, Braille line, thermal duplicators, among others, to accessible book producers/publishers.

179. With regard to the measures adopted to ensure professionals in the school system receive proper training on issues related to disabilities, as well as measures to integrate individuals with disabilities in teaching staff, the Ministry of Education has implemented continuing training measures for public school educators, administrators, and educators in the development of inclusive educational systems.

180. According to the INEP/MEC/2008 Census of Higher Education, the number and percentage of students with disabilities in higher education is 11,412 (0.2%) students with disabilities out of a total of 5,808,017 enrolled students.

181. The number and percentage of students with disabilities by gender and field of study, according to the INEP/MEC/2009 School Census are provided below:

(a) Day Care: male – 10,864 (56.9%) and female – 8,216 (43.1%), total of 19,080;

(b) Pre-School: male – 32,835 (59%) and female – 22,864 (41%), total of 55,699;

(c) Primary Education: male – 279,122 (59.8%) and female – 186,905 (40.2%), total of 466,027;

(d) Secondary Education: male – 12,147 (53.4%) and female – 10,581 (46.6%), total of 22,728;

(e) Vocational Training: male – 1,100 (59.8%) and female – 737 (40.2%), total of 1,837;

(f) EJA: male – 42,302 (56.8%) and female – 32,045 (43.2%), total of 74,347;

(g) Total: male – 378,370 (59.0%) and female – 261,348 (41.0%), total of 639,718.

182. With regard to the adaptations and other measures adopted to ensure access to education for life, initiatives to support students with disabilities are developed within the framework of the Specialized Educational Service (Atendimento Educacional Especializado – AEE), through which the teaching strategies and accessibility resources required for ongoing education are determined, including activities and coordination with teachers in regular classrooms, based on the assessment of student needs and abilities. These measures are aimed at all educational levels, stages and methods.

183. In regard to the strategies adopted for the early identification of persons with disabilities and determination of their educational needs, the pertinent measures are implemented through inter-sector policies, with special emphasis on the School Health Program (Programa Saúde na Escola – PSE), organized as follows:

(a) Evaluation of health conditions: visual and hearing acuity, among others;

(b) Promotion of health and prevention: focused on building a culture of peace; combating violence and alcohol, tobacco, and other drug use; addressing sexual and reproductive education; stimulating physical activity;

(c) Continuing professional and youth training and capacity building: executed in conjunction with the Tele-Health Centers (Núcleos de Telessaúde) through the formation of health teams deployed to PSE areas;

(d) Monitoring and evaluation of student health: performed through the National School Health Survey (Pesquisa Nacional de Saúde do Escolar – PENSEe), of health and socioeconomic profiles.

184. In 2011, other initiatives were implemented to ensure the right to education of persons with disabilities under the National Plan on the Rights of Persons with Disabilities (Plano Nacional dos Direitos da Pessoa com Deficiência), including the purchase of 2,600 buses to provide Accessible School Transportation for 60,000 students with disabilities; the establishment of 17,000 new Multifunctional Rooms; the refurbishment of 28,000 regular and special education classrooms in schools engaged in providing specialized educational services; the hiring of 648 educators and 648 LIBRAS Translators/Interpreters to ensure accessibility for hearing impaired students in federal education establishments; architectural adaptations to provide accessibility in 42,000 public schools; support to 180 projects in federal learning institutions to promote accessibility to higher education; the mandatory guarantee of at least 5% of available openings to persons with disabilities to course programs administered by the National Program on Access to Vocational Training and Employment (Programa Nacional de Acesso ao Ensino Técnico e Emprego – PRONATEC), resulting in the qualification of 150,000 persons with disabilities; expanding the number of Letters/LIBRAS programs to 27 and the respective number of openings per year from 1,800 to 2,700; and the development of 12 Bilingual Education – LIBRAS/Portuguese courses, leading to the creation 480 new jobs per year through the Initial Training of Teachers and Translators / Interpreters pounds.

## **Article 25 – Health**

185. Under the Federal Constitution, health is a right of all citizens and a duty of the State and the delivery of care free of charge is ensured. There are legal instruments in place to assure the quality of and access to services of the Unified Health System, and primary care for specialized basic and tertiary ambulatory and hospital services. Within this framework, persons with disabilities have the right to receive assistance through SUS health facilities, municipal Basic Health Units (Unidades Básicas de Saúde) under the Family Health (Saúde da Família) initiative, Specialized Centers (Centros de Especialidades), Rehabilitation Services, and Hospitals. Individuals also have the right to medical visits, dental care, nursing assistance and procedures, visits from Community Health Agents (Agentes Comunitários de Saúde), supplementary diagnostic exams, and SUS distributed drugs and medicines. Further, they are entitled to receive care appropriate to their specific condition, in accordance with their disabilities, including the necessary orthotics, prostheses, and locomotion assistance means, in conjunction with the respective rehabilitation and therapy work performed at an SUS or SUS-affiliated rehabilitation service.

186. Realization of these rights within the national territory has not advanced uniformly in the various regions, as a consequence of the significant socioeconomic and cultural differences between these and the relative independence of the states to manage and execute state and local health policies. In this light, not all services of the primary care network are developed with a view to accessibility and capacity building for professionals in receiving and treating persons with disabilities, although changes are underway with the full technical and financial support of the Ministry of Health. The Technical Health Unit for

Persons with disabilities (Área Técnica de Saúde da Pessoa com Deficiência) of the Department of Strategic Programmatic Actions), a component of the Health Ministry's Secretariat for Health Care (Secretaria de Atenção), coordinates in a cross-cutting fashion with other ministry policies, including those in connection with women's, youth and adolescent, and children's health, mental health, men's and elderly health, other Departments, such as STD/AIDS, Viral Hepatitis, other Secretariats, including the Health Surveillance Secretariat, and other Ministries, among them Education, Social Development and Hunger Alleviations, and the Secretariat for Human Rights, leveraging resources for the effective implementation of measures to ensure the inclusion, citizenship, respect, and dignity for the daily life of persons with disabilities in Brazil. The realization of these rights, the country has progressed differently in each region, given the large differences in socio-economic and cultural ties, and the relative independence of federal agencies in managing and implementing state policies and local health. Thus, not all services of public health care facilities are prepared in terms of accessibility and training of professionals to accept and treat people with disabilities, but changes are underway, widely supported, technically and financially by the Ministry of Health to Technical Area of health of People with Disabilities, Department of Strategic Programmatic Actions of the Department of Health Care Ministry of Health is structured, across, with the other policies of that Ministry, as women's health, youth and adolescents, children, mental health, human health and the elderly, with other Departments, such as AIDS / STD and Viral Hepatitis, with other Departments, such as the Secretariat of Health Surveillance, and with other ministries such as Education, Social Development and Fight Against hunger and Human Rights Secretariat, increasing resources for effective action to bring inclusion, citizenship, respect and dignity for the daily life of disabled people in Brazil.

187. Among the progress made in the delivery of SUS services with a positive impact on care for persons with disabilities, based on the principle of universal care:

- **Primary Care** – 31,095 Family Health Teams established in 5,269 municipalities (94.7%), reaching 92.2 million citizens, 52% of the population. A total of 239,403 Community Health Agents (Agentes Comunitários de Saúde) engaged in 5,354 municipalities (96.2%), encompassing 113.5 million Brazilians, 61.7% of the population. 1210 Family Health Support Centers (Núcleos de Apoio à Saúde da Família – NASF) financed for municipalities, specifically 1,093 type I NASF (consisting of at least five distinct professional-level occupations: Social Worker, Physical Education Instructor; Pharmacist, Physical Therapist, Audiologist, Acupuncturist, Gynecologist, Homeopath, Pediatrician, Psychiatrist, Nutritionist, Psychologist and Occupational Therapist), and 117 type II NASF (consisting of at least three distinct professional-level occupations, from the following: Social Worker, Physical Education Instructor, Pharmacist, Physical Therapist, Speech Therapist, Nutritionist, Psychologist, and Occupational Therapist). 19,781 Dental Health Teams (Equipes de Saúde Bucal) deployed in 4,754 municipalities (85.4% of total), covering a population of 84.9 million people, 49.1% of the population. 838 Specialized Dental Clinics (Centros de Especialidades Odontológicas – CEO) implemented in 703 municipalities (12.6% of the total). 323 Creation of Regional Dental Prosthetics Laboratories. Features: (1) survey conducted by the Ministry of Health, in partnership with the University of Sao Paulo and New York University revealed showed that with each 10% rise Family Health Care infant mortality dropped 4.6%, (2) training courses and informative materials for specialized dental clinics (Centros de Especialidades Odontológicas) on persons with disabilities (Primary Care Log – Dental Health/2007), (3) possibility of establishing a rehabilitation profile for NASF (MS/GM Decree No. 154/08), (4) incorporation of questions in connection with persons with disabilities in Ministry of Health publications aimed at Primary Care professionals, such as the Manual and Practical

Guide for Community Health Agents (Manual de Trabalho e o Guia Prático do Agente Comunitário de Saúde) (2009) (5) publication of Directive (MS/GM No. 1032 of May 5, 2010) to include dental procedures in a hospitals serving persons with disabilities.

- **Urgent and Emergency Care** – Mobile Urgent Care Service (Serviço de Atendimento Móvel de Urgência – SAMU) implemented in 1,309 municipalities (23,5% of the total), covering 107,000,000 of persons; financed purchase of ambulances (1,188 with primary care support and 329 with intensive care support facilities), water rescue units, and motor launches.
- **Emergency Care Units (Unidades de Pronto-Atendimento – UPAs)** – creation of 398 UPAs to reduce emergency demand at general hospitals.
- **Medications** – distributed free of charge throughout then SUS service network for common complications, including continuous and mental health medications. Implementation, further, of the Brazilian Popular Pharmacy Program (Programa Farmácia Popular do Brasil), composed of 538 pharmacies within the system distributed across 415 municipalities; and 11,186 certified pharmacies in co-payment system in 2,136 municipalities.
- **Sexual and Reproductive Health** – strengthening of the Policy on Sexual and Reproductive Rights (Política de Direitos Sexuais e Reprodutivos) represents a priority of the Ministry of Health, with emphasis given to enhancing obstetric care, combating gynecological cancers, providing family planning services, offering assistance in cases of unsafe abortions, and combating domestic and sexual violence, in addition to preventing and treating women LIVING with STD/AIDS. Specifically, the National Policy for Persons with Disabilities (Política Nacional de Saúde da Pessoa com Deficiência) requires that comprehensive health care to persons with disabilities include the specific methods and techniques to ensure the adoption of measures aimed at sexual and reproductive health, including medication, technological resources, and specialized interventions. Based on the issue’s cross-cutting interaction with other policies, including Women’s Health, Youth and Adolescent Health, Men’s Health, and the National STD/AIDS Program (Programa Nacional de DST/Aids), the Ministry of Health has promoted discussion since 2007 on strategies to meet the demands of persons with disabilities in respect of their Sexual and Reproductive Rights. In that same year, Brazil organized the National Consultation on Sexual and Reproductive Health and Persons with Disabilities (Consulta Nacional sobre Saúde Sexual e Reprodutiva e Pessoas com Deficiência), at which time international experts and officials considered strategies for eliminating discrimination in marriage, families, and reproduction. In 2009, the Ministry of Health, in partnership with the United Nations Population Fund (UNFPA), held the 1<sup>st</sup> National Seminar I Sexual and Reproductive Rights and Persons with Disabilities (I Seminário Nacional de Saúde sobre Direitos Sexuais e Reprodutivos e Pessoas com Deficiência). At the Seminar, guidelines were discussed and guidelines recommended on measure for effective implementation of the respective guidelines at the three levels of government. Following the Seminar, “Sexual and Reproductive Rights in Comprehensive Health Care to Persons with Disabilities (“Direitos Sexuais e Reprodutivos na Integralidade da Atenção à Saúde de Pessoas com Deficiência”) and “1<sup>st</sup> National Seminar on Health: Sexual and Reproductive Rights of Persons with Disabilities” (“I Seminário Nacional de Saúde: Direitos Sexuais e Reprodutivos e Pessoas com Deficiência”) were published by the Ministry of Health and funding from UNFPA.
- **National Policy on Family Planning (Política Nacional de Planejamento Familiar) (2008)** – free contraception; contraception provided at Popular

Pharmacies; performance of outpatient vasectomies (16,282); Natural and Humanized Childbirth – Guaranteed right of pregnant women; six-month maternity leave.

- **Contraception** – throughout the country, approximately 170,000 women receive contraception every month through the SUS; the National Policy on Family Planning has expanded the supply of contraception offered in Basic Pharmacies to 50,000,000 packages of combined birth control pills and 4,300,000 injectable ampoules; has executed large-scale deliveries of educational materials on contraception for use in schools, community centers, the Family Health Program, and other assistance units.
- **Health for the Elderly** – the National Program for the Training of Elderly Caregivers (Programa Nacional de Formação de Cuidadores de Idosos) (2008) implemented in 36 SUS technical schools and publication of the Caregiver's Handbook (Manual do Cuidador); 5,000,000 health brochures distributed to senior citizens; 180,000 eyeglasses distributed. Of particular note is the interface between the policy and the policy on disabled persons, resulting in the inclusion of specific guidelines on care giving in the Caregiver's Handbook in regard to older persons with a disability/incapacity.
- **Mental Health Service Network** – mental health care has undergone profound changes in Brazil over the past decade. Many psychiatric wards have been shuttered and the Psycho-Social Assistance Centers (Centros de Atenção Psicossocial – CAPS) expanded and consolidated in every state. Psychiatric hospitals have been down-scaled through a reduction in the number of patients; Back Home and Residential Therapy Programs (Programas de Volta para Casa e Residências Terapêuticas) have been established to de-hospitalize and restore full citizenship to patients subject to decades of institutionalization; social inclusion in work initiatives for persons with mental disorders have been set up in cities – multiplying at a significant rate. Progress has been secured in formulating comprehensive care policies for alcohol/drug user and mental health care for children and adolescents through the primary care units. Space has been opened in general hospitals as well. In July 2010, there were a total of 1,541 CAPS, of which 242 were for alcohol/drug users, 122 for children, 725 type I, 406 type II, 46 type III.
- **Preventive Measures** – The Ministry of Health has continuously promoted the adoption of special care measures for pregnancy, childbirth, and infants in their first year of life, with a view to improving food and nutrition, undertaking vaccination campaigns to combat transmittable diseases and tetanus, implementing actions against sexually transmittable diseases, sponsoring safety programs in the workplace, organizing campaigns and actions to prevent criminal and traffic violence, providing guidance on then non-abusive use of alcohol, tobacco, and other drugs, preventing diabetes and high blood pressure. This level of prevention is charged to the primary health care units, intermediary and specialized units at the municipal level, and the Family Health Teams (Equipes de Saúde da Família), including home visits by Community Agents to families for purposes of the follow-up of children, adults, pregnant women, and older persons.
- **Preventing Transmittable Diseases** – Organization of the National Vaccination Campaign to Eliminate Rubella (Campanha Nacional de Vacinação para Eliminação da Rubéola), the target audience of which was men and women 20-39 years of age. The effort achieved 95% of the established target – 67,808,969 persons vaccinated – corresponding to the distribution at the federal level of approximately 85 million syringes, needles, and doses of double viral vaccine and triple viral vaccine. Vaccination for polio encompassed 97% of children under five in the Campaign's

first stage and 94% in the second stage. Expanded decentralization of leprosy control actions to Primary Health Care Units (Unidades Básicas de Saúde – UBS) from 38% in 2006 to 44.2% in 2008, corresponding to 88.6% of the target of 50% initially established. Important to note that 15,231 of the country's 34,414 UBS operate the Leprosy Control Program (Programa de Controle de Hanseníase).

- **Promotion and Prevention** – awareness-raising campaigns to reduce alcohol consumption; restriction of alcohol sales on roads and highways; zero tolerance for drivers with alcohol in their bloodstreams (rapid breathalyzer tests); awareness-raising campaigns to reduce smoking through placement of images on tobacco product packaging.
- **Children's Health Booklet (Caderneta de Saúde da Criança)** – developed in 2006 by the Ministry of Health and distributed to all State and Municipal Health Secretariats for delivery to children born within Brazil. Contains information on screening tests that contribute to early detection of disabilities (Neonatal Screening – Guthrie Test, Hearing Test, and Red Reflex Examination). Enables monitoring of growth and development of children, with guidance to parents on child care.
- **Preventing Accidents, Violence, and Promoting a Culture of Peace (2008)** – Organization of the continuing traffic accident and use of child seats in the case of accidents campaign, a partnership between the Ministry of Health and the National Traffic Department (Departamento Nacional de Trânsito) and the Ministry of Cities. Development of the “Impact of Violence on the Health of Children and Adolescents (“Impacto da violência na saúde de crianças e adolescentes”) primer, with a view to preventing violence and promoting a culture of peace, launched at the 3<sup>rd</sup> World Congress on Confronting the Sexual Exploitation of Children and Adolescents in 2008. Preparation of the “Toward a Culture of Peace, Promoting Health and Preventing Violence” (“Por uma cultura de paz, promoção da saúde e prevenção de violências”) primer – a joint action coordinated under the Family Health Strategy (Estratégia de Saúde da Família – ESF), an initiative of the Ministry of Health, and the National Program for Public Security with Citizenship (Programa Nacional de Segurança com Cidadania – PRONASCI) of the Ministry of Justice launched in 2008. Permanent capacity building – Distance Education Course: Impact of Violence on Health (Impacto da Violência na Saúde) executed in partnership with Claves/FIOCRUZ.

188. Persons with disabilities are entitled to specific diagnosis, prevention, and rehabilitation services, as well as prosthetics and mobility aids, as part of their rehabilitation process, to the extent the pertinent equipment supplements the associated services, enhancing the potential for independent living and inclusion. The National Health Policy for Persons with Disabilities (MS/GM Directive No. 1060/02) provides that rehabilitation should promote the development of capabilities and skills and personal and community resources to promote independence and social participation by persons with disabilities (inclusion in the job market, education, sports, leisure, tourism, etc.). The rehabilitation process involves diagnoses, evaluation by multidisciplinary teams (physicians, physical therapists, psychologists, occupational therapists, speech therapists, social workers, nurses, nutritionists, and others), the provision of orthotics and prosthetics, mobility aids, and other adaptive devices. The Policy also sets out the responsibilities of the three levels of government, in addition to ensuring effective public oversight of implementation.

189. The rehabilitation of persons with disabilities, with an emphasis on social inclusion, involves inter-sector measures and establishing an interface at the three spheres of government through children's, women's, men's and senior, adolescent, worker, mental, and dental health policies. The expansion and strengthening Rehabilitation Services networks has been a priority of the Technical Health Unit for Persons with Disabilities

(Área Técnica de Saúde da Pessoa com Deficiência), through: development of standards on organizing health care for persons disabilities, assistance to the states, Federal District, and municipalities; increased financial resources to structure health units and professional training. Care and rehabilitation networks for persons with disabilities, the product of a partnership between the Ministry of Health, states, municipalities, and the Federal District, are governed by the following specific legislation:

**1. State Physical Rehabilitation Services** – Regulated by MS/GM Directive No. 818/01 and MS/SAS Directive No. 185/01, governing the implementation of services in the states through hierarchical incorporation of services by level of complexity, determination of the specificities of each level, human and material resources required for service operation, as well as mechanisms for evaluating, overseeing, monitoring, and controlling the assistance provided to users. Implementation of the Physical Rehabilitation Services Network (Rede de Serviços de Reabilitação Física) in Brazil achieved 73% of 2010 target set out in the Directive through 158 services. The assistance provided by multi-disciplinary teams and the delivery of orthotics, prosthetics, and auxiliary means of locomotion are tied to the initiative and provided universally, as are the related rehabilitation procedures.

**2. State Auditory Health Services Network** – Implementation of the Auditory Health Services Network (Serviços de Saúde Auditiva) is regulated by MS/SAS Directive No. 587/04; MS/SAS Directive No. 589/04; and the National Policy on Auditory Health Care (Política Nacional de Atenção à Saúde Auditiva) – MS/GM Directive No. 2.073/04. Care involves multi-disciplinary assistance and provides for diagnostics, the supply of hearing devices, follow-up and speech and auditory therapy aimed at the rehabilitation of persons with hearing impairments. Through August 2010, a total of 144 (Auditory Health Services) had been certified, accounting for 89% of the national network's target volume.

**3. Rehabilitation Services for Persons with Mental Disorders and Autism** – MS/GM Directive No. 1635/02 standardized care within the SUS for persons with mental disabilities and autistics. The norm is currently under review as part of the Policy on Mental Health (Política de Saúde Mental). Through August 2010, a total of 1,000 Services for Persons with Mental Disabilities/Autistics had been registered with the SUS, the majority as charitable organizations.

**4. Rehabilitation Services for Visually Impaired Persons** – MS/GM Directive No. 3128 dated December 24, 2008, provides for the implementation of State Health Care Networks for Visually Impaired Persons (Redes Estaduais de Atenção à Pessoa com Deficiência Visual) composed of primary care measures and Visual Rehabilitation Service. A recently published instruments requires the implementation of at least 75 Visual Rehabilitation Services under the SUS Ophthalmological Care Network.

**5. Other Rehabilitation Services** – Services designed to care for patients with Osteogenesis Imperfecta were instituted through MS/GM Directive No. 2035/01. Breathing Assistance Services for patients with Neuromuscular Diseases were standardized in 2008 through MS/GM Directive No. 1370/08 and MS/SAS Directive No. 370/08. For its part, MS/SAS Directive No. 400/2009 set out national guidelines on Health Care for Ostomized Patients within the SUS.

190. Rehabilitation services require significant technological investment, limiting their implementation to state capitals and Major metropolitan centers at the expense of small municipalities. As such, rural areas covered by the Family Health Program refer people with disabilities to urban centers to receive specialized rehabilitation care and adaptive

technologies. To meet these demands, the State, Municipal, and Federal District Health Secretariat receive funds, formalized through agreements, from the Ministry of Health to adapt primary care, specialized, and hospital care in connection with their facilities, equipment, and human resources training. Resource transfers stimulate and support measures related to the implementation and expansion of health care for people with disabilities through the Unified Health System, including the organization of course programs, seminars, forums, and events.

191. Within the framework of professional qualification in reproductive planning, the Ministry of Health, in partnership with Brazilian Federation of Gynecology and Obstetrics Societies (Federação Brasileira das Sociedades de Ginecologia e Obstetrícia – FEBRASGO) and the Departments of 15 State and State Capital Health Secretariats (Rio Branco, Acre, Manaus, Amazonas, Macapá, Amapá, Porto Velho, Rondônia, Palmas, Tocantins, Belém, Pará, Teresina, Piauí, São Luís, Maranhão, Fortaleza, Ceará, Joao Pessoa, Paraíba, Recife, Pernambuco, Natal, Rio Grande do Norte, Aracaju, Sergipe, Maceió, Alagoas, and Goiânia, Goiás), delivers training for doctors and nurses engaged in providing primary care and specialized health assistance for individuals who wish to have children but require specific follow-up and care. In 2009, a Directive was issued mandating genetic counseling, diagnosis, specific tests, and treatment in clinical genetics within the SUS. Over the past 25 years, genetic diseases have risen from the fifth to the second leading cause of infant mortality in Brazil, behind factors in connection with premature and low birth weight infants, while accounting for over 50% of pediatric hospitalizations.

192. In 2008, the Ministry of Health organized a workshop on training in Orthotics and Prosthetics in Brazil, with a view to developing implementation strategies and guidelines for Training Courses delivered to professionals through the Unified Health System Technical Schools (Escolas Técnicas do Sistema Único de Saúde – ETSUS). Currently, two training courses are being offered, two capacity building programs were administered, and another training course in the certification process. The Ministry of Health has also invested in the publication and distribution of materials for health professionals, administrators, and persons with disabilities/family member of SUS users. The primers, folders, manuals, books, and laws address the dignity, citizenship, rights, inclusion accessibility, primary care, and sexual and reproductive rights of persons with disabilities. The publications are prepared by the Ministry of Health, and examine issues and provide important information for persons with disabilities, a majority stemming from the Department of Strategic Programmatic Actions (Departamento de Ações Programáticas Estratégicas – DAPES), where the Technical Health Unit for Persons with Disabilities (Área Técnica de Saúde da Pessoa com Deficiência) is located, and the Primary Health Care Department (Departamento de Atenção Básica – DAB), both components of the Secretariat for Health Care (SAS).

193. The Manual on Physical Facilities of the Primary Care Units (Manual de Estrutura Física das Unidades Básicas de Saúde) (2008) was re-issued as well, providing administrators with guidance on the development of architectural projects that take into account Brazilian accessibility standards (Decree No. 5296 dated December 2, 2004) and ABNT/NBR 9050/2004, which ensures autonomous and safe use of physical environments, buildings, and furniture. The family primary care units are able to address approximately 85% of all health issues in communities, representing, as such, a preferential entrance point to the SUS. Thus, the importance of assuring architectural and attitudinal access.

194. Law No. 9656 dated June 3, 1998, provides for private health plans and insurance. Article 14 states, “No one, by virtue of a consumer’s age or the condition of a person with a disability, may be prevented from taking part in private health assistance plans.” The same law subjects private entities to the standards and oversight of the National Agency for Supplementary Health Care (Agência Nacional de Saúde Suplementar – ANS), an



inspection and oversight body of the Ministry of Health. It is important to note, however, that private health policies require that persons declare their disabilities, which are entered as previous injuries, with a view to increasing deductibles, a practice that is fundamentally disrespectful of and discriminatory against persons with disabilities. The requirement violates the dignity of persons with disabilities. Inadequate service provision is inadmissible, constituting a breach of contract and violation of the Consumer Protection Code (Código de Defesa do Consumidor) and should be reported to ANS and, where necessary, to the Judiciary.

195. The end sought by the Brazilian State is to respect the dignity and equality of its human beings, as a result of which potential limitations of persons with disabilities cannot be used as a means to justify the unequal treatment of that segment. As laid out above, Brazilian law ensures universal and free health care for all citizens, without exclusion of any nature, from the Federal Constitution, the Organic Health Law, and all the resulting laws. Article 23, sub-section II, of the Federal Constitution mandates shared regulation by the Union, states, Federal District, and municipalities health care and public assistance, protection and guarantees for persons with disabilities.

## **Article 26 – Habilitation and rehabilitation**

196. The right to habilitation and rehabilitation is enshrined in article 203 of the Federal Constitution, for the purpose of ensuring the full inclusion and participation of persons with disabilities in all areas of life. The article provides:

Article 203. Social assistance shall be rendered to whomever may need it, regardless of contribution to social welfare and shall have as objectives:

IV – The habilitation and rehabilitation of the handicapped and their integration into community life.

197. Ensuring realization of this right is a joint task of the Ministry of Health with the Ministries of Education, Social Development and Hunger Alleviation, Cities, and Labor and Employment, and the Secretariat for Human Rights of the Office of the President of the Republic. The institutions have primary responsibility for implementing the Social Agenda of the Office of the President of the Republic – Human Rights and Citizenship Axis – Persons with Disabilities (Decree No. 6215 dated September 26, 2007). The related efforts have served to strengthen the national policy agenda on the inclusion of persons with disabilities through the organization of measures implemented by the various ministries under the coordination of the Secretariat for Human Rights of the Office of the President of the Republic to ensure accessibility and full development, including access to prosthetics and mobility aids, coupled with the rehabilitation assistance through the Unified Health System, for individuals with visual, hearing, physical or intellectual disabilities (where associated to the need for equipment). The Social Agenda has served as a key instrument in the Brazilian Government's efforts to ensure full publicity of questions relating to Persons with Disabilities through the implementation of a series of priority actions a number of areas: housing, transportation, orthotics and prosthetics, education, and work.

198. Guided by the social agenda, the SUS reinforces the expansion and coverage of rehabilitation services, including through diagnoses, the provision of prescriptions and orthotics and prosthetics and mobility aids, therapy, and monitoring. To qualify the respective process, the Ministry of Health continues to fund the implementation of Orthopedic Workshops (with priority given to the North and Northeast), training for orthotics/prosthetics technicians, and retraining of professionals in the field of rehabilitation prescribing, indicating, and adapting the pertinent equipment. In conjunction with the Social Agenda, the More Health Program (Programa Mais Saúde) (a series of priority

actions developed by the Ministry of Health through 2011) provides for financial allocations to all measures undertaken. Through the mechanism, the National Prosthetics and Orthotics Program (Programa Nacional de Órteses e Próteses) has received an additional allocation R\$ 115 million per year. In addition Orthopedic Workshops have been implemented in Piauí, Pernambuco, Bahia (through the Orthotics/Prosthetics training course), Alagoas, two in Mato Grosso (through the Orthotics/Prosthetics Training Course), Santa Catarina (through the Orthotics/Prosthetics Training Course), and Amazonas. Another six workshops currently being negotiated, including an additional training course for orthotics/prosthetics technicians, of which there remains a significant paucity in Brazil.

199. Within the framework of the National Plan on the Rights of Persons with Disabilities launched in November 2011, the SUS rehabilitation network will be expanded and qualified, in partnership with national institutions, and 45 Rehabilitation Reference Centers (Centros de Referência em Reabilitação) established to ensure assistance under the four rehabilitation modalities (intellectual, physical, visual, and auditory) in every state of the Union. In addition, with respect to the delivery of orthotic and prosthetic, the Plan provides for: a) implementation of 6 orthotic workshops and 13 traveling orthotics workshops, 7 via ground and six via river transportation, for purposes of the production and supply of orthotics and prosthetic, with particular priority to the North and Northeast Regions; b) qualification of professionals engaged in the 60 existing orthotics workshops, ensuring assistance in every state of the Union; c) training of 660 health professionals in orthotics and prosthetic through 2014, for the purpose of engaging in the orthotics workshops; d) allocation of SUS resources to adapt and maintain wheel chairs; and e) 20% expansion of orthotics, prosthetics, and mobility aid supplies, specifically divided into a 10% annual growth in the supply and 10% rise in the maintenance of orthotics, prosthetics, and special materials (órteses, próteses e materiais especiais – OPM). These efforts represented a yearly investment of R\$ 217.4 million in 2011, a figure projected to rise to R\$ 375.6 million per year by 2014, or a 73% increase in investment in the sector, totaling R\$ 949,6 million in new resources for the period 2012-2014.

200. Another relevant inter-ministerial effort to promote the rehabilitation of persons with disabilities in which the Ministry of Health participates is the BPC in School Program (Programa BPC na Escola). The purpose of the initiative is to ensure the inclusion of children and adolescents (0-18 years) with disabilities. Individual recipients of the benefit identify barriers that prevent them from attending school. The initiative requires marshaling efforts at the three levels of the Federation, in particular for purposes of effective implementation of the measures required to eliminate barriers and include children/adolescents in school.

201. The respective barriers were identified through a national survey (2008/2009) based on 212,192 questionnaires applied during home visits. A preliminary consolidation of the data (2010) shows that 80% of beneficiaries have medical care, 77% of which is provided through the SUS, reflecting the reach of Brazil's Primary Health Care system through the Family Health Strategy. A total of 85% of all respondents stated that they required therapy/rehabilitation, 58% of whom adhere to their therapy/rehabilitation regime and 42% of whom do not. The principal needs are for speech therapy (26%), physical therapy (24%), and psychological counseling (12%). Of the total survey population, 58% reported needing orthotics and/or prosthetics. Of these, 40% actually make use of orthotics or prosthetics, while 60% do not. Leading demands include wheelchairs, bath chairs, walkers, and eyeglasses. The survey focuses on questions previously by the Ministry of Health, namely, the need for greater decentralization of specialized rehabilitation services and greater flexibility in care delivery and the supply of adaptive technologies, in particular to the poorest population segments.

202. The Ministry of Health has participated in Courses, Meetings, and Seminars organized in the states and municipalities to set out the guidelines of the National Policy for the Health of Persons with Disabilities, with a view to addressing specific issues in connection with physical, auditory, visual, and intellectual rehabilitation and the development of the BPC Program in School. The distribution of publications has provided health professionals, administrators, and SUS users with disabilities with important and pertinent information on health, rehabilitation, and quality of life assistance.

203. From an epidemiological standpoint, the Ministry of Health works with information generated by national databases (birth, morbidity, mortality, services, and procedures) to analyze and track the health of the Brazilian population. It seeks to take preventive action through permanent vaccination programs intended to following children throughout the development process, as well as promote mass vaccination where necessary – to eliminate polio and measles, to significantly reduce the incidence of rubella in pregnancy.

- **Health care for newborns** – organization of a comprehensive health network for women, pregnant women, and newborns is the underlying element to promote health and reduce illness and early and preventable deaths among women and children. The following initiatives that underpin the health care network for newborns:
  - North-Northeast Perinatal Health Network (Rede Norte-nordeste de Saúde Perinatal) – designed to reduce health inequalities in Brazil through the articulation of a neonatal network of secondary and tertiary public maternity wards located in the North and Northeast Regions.
  - Humanized Care for Low Weight Newborns – Kangaroo Method – humanized neonatal assistance based on four basic principles: receiving newborns and their families, respecting the singular qualities of individuals, promoting skin-to-skin contact, and engaging the mother in childcare.
- **Incentive to the Qualification and Monitoring of Growth and Development** – The Child Health Booklet – Citizen Passport, provided to every newborn in Brazil is an important instrument for registering and offering guidance on the growth and development of children. Appropriate use of the resource is critical to strengthen and maintain the ties between children and their families and the respective health services.
- **Infant and Fetal Mortality Surveillance** – a investigating infant deaths is a valuable strategy for reducing infant and fetal mortality, enabling health services to adopt measures to address preventable deaths. It also contributes to enhancing the related death certificates and the quality of the national data stored in the Mortality Information Database (Sistema de Informações sobre Mortalidade – SIM) and the Information Database on Newborns (Sistema de Informações de Nascidos Vivos – SINASC), reducing the under reporting of deaths and fatalities of unknown cause.
- **Vaccinating to prevent disability causing diseases** – the National Immunization Program (Programa Nacional de Imunização – PNI) operated by the Health Surveillance Agency contributes to preventing disabilities and includes, in addition, information on the population, focused on the inter-relationship between immunization and the prevention of disabilities and presented in easy to understand language and through a variety and broad range of resources. Polio, rubella, meningitis, measles, and BCG vaccinations cover 90% of the target audience in Brazil, with polio and measles officially considered eradicated from the national territory. Every Brazilian state and municipality participates in the program.

204. The state and municipal health units and secretariats implement systematic health measures to prevent disabilities, including: pre-natal monitoring (through laboratory exams

that include STD/AIDS tests) and post-natal care (such as the Guthrie Test, Ear Test, and visual screening for infants); follow-up of the growth and development of children (nutrition); prevention and treatment of leprosy; polio, measles, and rubella vaccination campaigns; care for sexually transmittable diseases and AIDS; genetic counseling, with access to tests to identify genetic diseases capable of causing disabilities (cerotype exam and others relating to the metabolism), including: PKU, hemoglobinopathy, and congenital hyperthyroidisms; programs aimed at persons with diabetes, high blood pressure, and heart problems; programs for adolescents; programs for older persons to ensure healthy aging and prevent falls.

205. The key challenge confronted are deaths and the effects injuries caused by external factors,, the product of violence, alcohol and drug use, and traffic accidents, at work and in the home. There are a number of initiatives at the three levels of government to confront the phenomenon, ranging from specific legislation to awareness-raising campaigns through the adoption of new habits and a culture based on peaces and respect for citizens and social and cultural diversity. Since 2003, the SUS Hospital Admittance Information System (Sistema de Informação de Internação Hospitalar – SIH/SUS) has recorded more than 500,000 hospitalization of men by virtue of external factors; in 2009, the number was 621,360 hospitalizations The Violence and Accident Surveillance (Vigilância de Violências e Acidentes – VIVA) initiative implemented by the Ministry of Health in August 2006 is composed of two components, namely continuous surveillance and case specific surveillance, each executed through a distinct instrument that includes a field for persons with disabilities. Through the Domestic, Sexual, and/or Other Violence Notification/Investigation Form (Ficha de Notificação/Investigação de Violência Doméstica, Sexual e/ou outras Violências) used in continuing surveillance efforts, a total of 1640 cases, or 3.9% of the total, were entered in 2006 and 1,093 cases, or 2% of the total, were reported in 2007. When the Urgent Care and Emergency Services Accident and Violence Notification Form (Ficha de Notificação de Acidentes e Violências em Serviços de Urgência e Emergência), employed in case specific instances, is applied the percentage rises to 6.5% of all occurrences.

206. It is worth noting the importance of the Reference Health Centers, which execute actions aimed at ensuring safe and healthy work environments through the prevention of work-related accidents and diseases, both in cities and rural areas. In Brazil the Ministry of Labor and Employment (MTE) has had primary responsibility for implementing, with the participation of representatives of the Ministry of Health (MS) workplace safety and hygiene standards. The applicable Workplace Safety AND Health Standards (Normas Regulamentadoras de Segurança e Medicina do Trabalho – NR) are discussed in the context of proposals submitted before the Permanent Representative Tripartite Committee (Comissão Tripartite Paritária Permanente – CTPP), which includes representatives of government (MTE, MS, and the Ministry of Social Welfare – MPAS), labor, and professional associations. Preventing workplace accidents is a key objective of the NR. In 2008, the Tripartite Committee for Workplace Health and Safety (Comissão Tripartite de Saúde e Segurança no Trabalho – CT-SST) was established to implement the National Policy on Worker Safety and Health (Política Nacional de Segurança e Saúde do Trabalhador), which addresses the issue of fatal and incapacitating workplace accidents, with an emphasis on those industries with highest rates of workplace accidents: construction and ground cargo transportation.

207. The Technical Worker Health Unit (Área Técnica de Saúde do Trabalhador) of the Ministry of Health, in conjunction with the states and municipalities, components of the National Network for the Comprehensive Health Care of Workers (Rede Nacional de Atenção Integral à Saúde do Trabalhador – RENAST) performs diagnostic studies and reports incidents in the workplace, in particular those set forth in MS Directive No. 777/04, governing mandatory reporting to worker health networks of: I – Fatal workplace accidents;

II – Accidents resulting in mutilation; III – Accidents involving exposure to biological materials; IV – Workplace accidents involving children and adolescents; V – Occupational dermatitis; VI – Exogenous intoxication (chemical substances, including pesticides, toxic gases, and heavy metals); VII – Repetitive Motion Injuries/Work-Related Musculoskeletal Disorder; VIII – Pneumoconiosis; IX – Noise Induced Hearing Loss; X – Work-related mental disorders; XI – Work-related cancer. Fatal and severe (involving mutilation) workplace accidents have also received special priority. Utilization of information to implement surveillance measures that promote changes in the workplace and, in this way, prevent new accidents and diseases.

208. While no specific measures have been adopted in rural areas, actions are undertaken to improve the general quality of life of families, such as expanding electric power, ware, and basic sanitation services. Centered on the environment and interaction with health issues, the Rural Sanitation Program (Programa de Saneamento Rural) seeks to expand coverage to improve the quality of environmental sanitation services in rural areas, in 2008, the principal lines of action included water supply and waste disposal projects. In 118 *quilombo* communities in 45 municipalities and 98 agrarian reform settlements, a total of 17,000 and 19,500 families were targeted, respectively. At the same time, simplified water supply and water sanitation systems were implemented in 139 rural schools and 46 municipalities; further, housing refurbishment projects and Chagas Disease campaigns were executed, reaching 20,000 families in 282 municipalities; finally, water supply projects were introduced, leading to improved sanitary conditions in households distributed across 407 indigenous villages.

## **Article 27 – Work and employment**

209. The programs and policies aimed at achieving full and productive employment for persons with disabilities have sought to promote greater opportunities for the segment by ensuring their full citizenship and the promotion of sustainability and independent living. Article 7, sub-section XXXI, of the Brazilian Constitution expressly prohibits discrimination of any nature in respect of salaries and wages and employment selection criteria for workers. An additional constitutional guarantee fostering the inclusion of persons with disabilities in the job market is provided for in article 37, sub-section VIII, which has reserved public positions and offices for persons with disabilities since 1988 in a percentage determined by law.

210. The Federal Public Administration ensures, through Law No. 8112 dated December 11, 1990, which sets for the legal regime to which public civil servants of the Union are subject, the right of persons with disabilities to register for public examination procedures in connection with the civil service on an equal footing with other candidates, to which end up to 20% of the available spaces provided for the respective public examination must be reserved for this segment (article 5, paragraph 2). Decree No. 3298 dated December 20, 1999 mandates a minimum of 5% of spaces in a given public examination (article 37, paragraph 1) is to be reserved, rounded to the next highest whole number where the percentage is a fractional number (paragraph 2). Article 8 of Law No. 7853 dated October 24, 1989, makes it a criminal offense, subject to one (1) to four (4) years' imprisonment, to block an individual's access, without just cause, to a public office or deny someone employment or work by virtue of a disability.

211. In the private sector, a minimum number of openings are mandated for companies with 100 or more employees. In addition to this quota – 2% to 5% of all available spaces, depending on the number of employees – companies may not terminate workers without just cause, where the workers in question represent the minimum number of employees with disabilities in the company, until such time as a replacement with a similar status is

found (article 93, paragraph, of Law No. 8213/91). Similar status means a worker with the same disability as the outgoing employee or a worker hired to occupy the same function or position. This is the prevailing position of the Labor Courts:

**Decision: Person with a disability – Reserved job opening – Article 93, paragraph 1, of Law No. 8213/91** – Reserved job openings for persons with disabilities, pursuant to paragraph 93, paragraph 1, of Law No. 8213/91, is the prevailing labor standard, which imposes indirect restrictions on the termination of employees with disabilities. By requiring the hiring of a replacement with a similar status as a condition for the termination of employees with disabilities without cause, the law established limits on the exercise of optional prerogative of employers to terminate such employees, instituting, at least in situations of transition, a type of employment guarantee for the holders of the positions reserved for persons with disabilities. In other words, absent the selection of another worker with a similar status, the contracts of employees without disabilities may not be revoked. And where revoked, such act is null and void, to which end the affected workers must be reinstated to their positions and full back and current wages paid, until such time as the hiring of a replacement with a similar status has been duly shown. (Superior Court of Labor – 3rd Region – RO 014900-78.2009.5.03.0025 – 3rd Panel – Rapporteur Judge Convocado Vitor Salino de Moura Eça, Issued on April 26, 2010).

**Decision: termination without cause. Employee reinstated.** Article 93, paragraph 1, of Law No. 8213/91 is manifestly clear in establishing that employees with disabilities or in rehabilitation may only occur following the selection of a replacement with a similar status. There exists, as such, an indirect guarantee to the respective employment positions that places conditions on the validity of the termination. (Superior Court of Labor – 5th Region – RO 0024600-59.2009.5.04.0026 – Rapporteur Maria Cristina Schaan Ferreira, Issue on May 26, 2010).

212. In a context marked by unequal economic, social, educational, and political opportunities, the Solidarity Economy (Economia Solidária) plays an important role. Job and income generation, as well as higher standards of social welfare for excluded workers, are targets of the Solidarity Economy. To this end, in addition to activities in connection with the production of goods and services, the creation of activities capable of fostering re-socialization and rehabilitation are equally important to secure enhance conditions of life and human dignity. In this light, the measures undertaken through the Solidarity Economy received funding through resources of the Developing Solidarity Economy (Economia Solidária em Desenvolvimento) section of the Federal Government's Multi-Annual Plan (PPA) 2004-2007, extending the PPA 2008-2011 as well. The related efforts are under the primary responsibility of the National Secretariat for the Solidarity Economy (Secretaria Nacional de Economia Solidária – SENAES/MTE). The objective of the Program is to promote strengthening and dissemination of the Solidarity Economy through integrated policy initiatives, with a view to generation employment and income, social inclusions, and the promotion of development with justice and solidarity. The target population is workers at risk of unemployment, the unemployed and self-employed, cooperatives, companies, self-manage companies, associations, funding agencies of the solidarity Economy, in additional to municipal and regional development fora. Notable among the initiatives measures are the articulation and integration of Solidarity Economy policy between the Union, states, and municipalities, and the close collaboration with civil society; the proposed implementation of instruments to protect and guarantee the right to the associated work; funding of self-managed enterprises, and organization of supply chains (recycled materials, clothes making, craftwork, and others; the development of methodologies, diagnostic analyses, studies; and determination of a diversity of instruments to track and evaluate the Solidarity Economy.

213. The execution of actions and measures to minimize the social exclusion of persons with disabilities in the workplace, including the actions of the Developing Solidarity Economy Program. Thus, it is worth noting that enterprises structured based on the solidarity economy seek to contribute with responses to these questions, to the extent they promote the solidarity practices and carry out enterprise activities in a manner consistent with environmental preservation; expand the exercise of democratic self-management; form permanent organizations for the production of goods and services in a healthy and safe manner, generating income for members; seek to ensure equal relationships between men and women, irrespective of social class, color, race/ethnicity, sexual orientation, age, or physical/mental condition; ensure the free and voluntary membership of members; promote the equitable distribution of the wealth produced collectively; and encourage environmental sustainability and environmentally sound practices, in family life and work.

214. An additional incentive to entrepreneurship is offered through the Brazilian Micro and Small Enterprise Support Service (Serviço Brasileiro de Apoio às Micro e Pequenas Empresas – SEBRAE), a private not-for-profit entity funded with public resources and established in 1972 to promote the competitiveness and sustainable development of micro and small businesses enterprises. The institution also operates to strengthen entrepreneurship and accelerate the process of employment formalization, through partnerships with the public and private sector, training programs, the provision of credit and innovation, the promotion of associations, fairs, and business roundtables. SEBRAE supports opening and expansion of small businesses, transforming the lives of millions of people through entrepreneurship initiatives.

215. The Brazilian Government's policy to promote equality through labor inspections is one of the most effective instruments for combating discriminatory practices and mitigating social inequalities. The Labor Protection Network Program (Programa Rede de Proteção ao Trabalho) takes into account persons with disabilities, striving to remove the obstacles encountered by this segment in its efforts to secure and maintain employment. Decree No. 3298/1999 conferred on the Ministry of Labor and Employment (MTE) the authority to establish the systematic monitoring, assessment, and control procedures in respect of companies. Normative Instruction No. 20/2001 regulates inspection and enforcement efforts action in this sphere. In recent years, labor inspection and enforcement actions has taken on, in line with required compliance of the applicable quotas, a larger role in promoting the employability of persons with disabilities, the integration of public actions, negotiations with and awareness-raising of employers, and other initiatives on behalf of the hiring of persons with disabilities.

216. In early 2006, the Secretariat of Labor Inspection (Secretaria de Inspeção do Trabalho – SIT) took over coordination of inspection and enforcement activities relating to compliance with the applicable quotas for persons with disabilities. That same year, the Secretariat established the inclusion of people with disabilities as a strategic objective and directed the Regional Offices to perform diagnostic analyses of the issue in their individual states work and to set out specific planning targets in this area. In 2005, the first year in which the results of inspection and enforcement procedures were entered in a field specially created for the issues within the Federal Labor Inspection System (Sistema Federal de Inspeção do Trabalho – SFIT), a total of 12,786 persons with disabilities were incorporated in the labor market through special inspections actions. The initiative contributed to boosting the number of persons with disabilities in the job market, from a total of 19,978 in 2006, to more than 22,314 in 2008, another 26,449 in 2009, culminating through July 2010 in a further 14,438 workers integrated to the job market through inspection actions. In the period 2005-July 2010, a total of 121,809 workers with disabilities have gained access to the formal labor market by virtue of the inspection and enforcement measures implemented by the Ministry of Labor and Employment.

217. In March 2007, SIT released a manual designed especially for employers titled “The Inclusion of Persons with Disabilities in the Labor Market” (“A Inclusão das Pessoas com Deficiência no Mercado de Trabalho”), 2nd edition of which issued in December 2007. The publication, to which the Ministry of Labor made an important contribution, provides information and clarifies doubts on the issue, contributing to the effort to employ workers in this population segment. Increased awareness among business and society is essential to remove attitudinal barriers, in addition to recognizing the need to adapt the workplace in order to ensure greater accessibility. The initiative sought to overcome resistance to the inclusion of persons with disabilities in the job market, largely a product of long-standing prejudice regarding the potential of individuals in this segment to contribute to the productivity and growth of companies, as well as misguided claims in connection with inadequate education levels and the absence of qualifications.

218. In the context of corporate social responsibility, companies are obligated to contribute to and support the qualification of their employees. In this sense, the Brazilian Government has sought to enhance the applicable legislation on apprenticeships to encourage the promotion of professional qualifications by employers themselves. The effort was spurred through Provisional Measure No. 251 dated June 13, 2005, and subsequently transformed into Law No. 11180 of September 23, 2005, with the inclusion of Article 428, paragraph 5, of the Consolidated Labor Laws – Labor Code (Consolidação das Leis Trabalhistas – CLT), which authorizes companies to hire apprentices with disabilities regardless of age (for the other segments of the population, the minimum age requirement is 24 years). The law provides for hiring of a number of apprentices corresponding to 5% to 15% of the total number of employees whose duties require professional training – companies will now have the option to hire persons with disabilities under the apprentice quota provision and subsequently as permanent employees, as per the law and duly qualified. This strategy (hiring through apprenticeships) is consistent with the guidance set forth by the International Labour Organization (ILO) in its Code of Practices: Management of disability issues in the workplace (item 4.4).

219. To ensure qualification is structured in accordance with the activity chosen by the company and increases the supply of persons with disabilities in the labor market, the Ministry of Labor directed that inspection and enforcement measures encourage the promotion of apprenticeships for this segment. Apprenticeships involve a special contract of limited time, in general two years, aimed at promoting technical and vocational training for workers. Under the related contracts, full labor rights are guaranteed, with the sole exception of the Employee Severance Fund (Fundo de Garantia do Tempo de Serviço – FGTS). Rather than deposits into an escrow account equivalent to 8% of the worker’s take home wages, the rate for apprentices is 2%. The strategy was first implemented as a pilot project in states (Amazonas, Bahia, Ceará, the Federal District, Espírito Santo, Maranhão, Minas Gerais, Parana, Rio Grande do Norte, and Rio Grande do Sul). Since the effort’s inception, Superintendencies have been engaged in an intensive coordinating push with S System – composed of organizations established by the country’s productive sectors (industry, commerce, agriculture, transportation, and cooperatives) for the purpose of qualifying and promoting the welfare of employees – and other bodies with primary responsibility for the qualification and training of persons with disabilities in all regions of the country, with a view further bolstering the outcomes of the pilot project.

220. Based on the Ministry of Labor’s administrative records, referred to as the as Annual List of Social Information (Relação Anual de Informações Sociais – RAIS\_ and the General Registry of Employed and Unemployed Persons (Cadastro Geral de Empregados e Desempregados – CAGED), it is clear that persons with disabilities have traditionally enjoyed a very low employability rate. The 2007 RAIS indicates total of 111,644 apprentices in Brazil, a full 111,414 of them disabilities and a mere 230 disabilities, representing 0.2% of all apprentices. The 2008 RAIS revealed a total of 133,973



apprentices, only 407 with disabilities, representing 0.3% of all apprentices. CAGED updated data for the 2008 RAIS show that through December 2009 there were 155,488 apprentices, a full 859 with disabilities, or 0.55% of the total. The latest figures from March 30, 2010, register 174,514 apprentices, of which 1,036 have disabilities, accounting for 0.59% of the total apprentice population. In absolute numbers, the number of apprentices with disabilities rose from 230 in the 2007 RAIS to 1,036 in March 2010, reflecting a 450% rise in this important tool for creating professional opportunity and ensuring the full exercise of labor rights.

221. To prevent harassment of persons with disabilities in the workplace, the Ministry of Labor and Employment provides guidance to the public, with a view to eliminating abuse and moral and sexual harassment. In 2009, 5,000 copies of the “Moral and Sexual Harassment in the Workplace” (“Assédio Moral e Sexual no Trabalho”) primer were published for distribution within the MTE. The material set out concepts and guidance on the applicable corrective measures to be taken.

222. Based on MTE records, in 2008 a total of 323,210 workers with disabilities appeared on Annual Registry of Social Information (RAIS), representing approximately 1% of the 39.4 million reported jobs through December 31.1 Among private companies with a legal obligation to hire persons with disabilities within a 2% to 5% range, compliance reached 45.22%, a figure that tends to increase with awareness-raising and enforcement actions. By way of assessing the reach of the law on quotas, of the 323,210 workers with disabilities in the formal employment a total of 240,439, work for companies with 100 or more employees, representing 74.39% of workers with disabilities in all firms within the formal employment market.

223. The measures undertaken to promote professional qualification for purposes of preparing individuals for incorporation in the job market are implemented through agreements between state and municipal bodies, in addition to entities engaged in professional qualification initiatives. CODEFAT Resolution No. 638 dated April 12, 2010, recently passed, amends Resolution No. 575/2008 by mandating in article 4, paragraph 6, the obligation to reserve 10% of all openings in professional qualification programs funded through the MTE for persons with disabilities. The registration of persons with disabilities in the National Employment System (Sistema Nacional de Emprego – SINE)<sup>v</sup> for purposes of filling job vacancies in the labor market is accomplished with the support of the Ministry of Labor through agreements with the states, state capitals, Federal District, and municipalities with over 300,000 inhabitants, based on funds provided by the Worker Support Fund (Fundo de Amparo ao Trabalhador – FAT), which are applied to maintain and invest in the Public Employment System, Work and Income (Sistema Público de Emprego, Trabalho e Renda). Currently, there are 1,375 service units spread across the country providing free services to the population.

224. The National Employment System (Sistema Nacional de Emprego – SINE) provides information on the professional profile of workers, with a view to meeting the demands of employers who post openings at the respective employment offices. It thus contributes to the recruitment of workers and job referrals. The objective is to reduce costs and waiting times for both candidates and employers. Investments are channeled to ensure accessibility to employment offices, thereby ensuring the delivery of services that value the citizenship of persons with disabilities. To assess the scope of the services provided to persons with disabilities in the employment intermediation process, figures collected from employment offices with computer systems indicated that the number of persons with disabilities who registered in the system and were successfully placed in the labor market in the period 2006-2009, and updated through June 17, 2010, was 36,502, or 38.2% of the 96,004 registered candidates.

225. Thus, whereas in 1996 a total of 52.2% of women over the age of 16 years were active, that is employed or seeking employment, the figure jumped to 58.6% in 2007, a critical trend in the light of decreasing male participation over the same period (from 83.3% to 81.6%). However, it is important to recognize that the activity level of women, although rising, remains below that observed for men: 81.6% in 2007. This disparity holds for workers with disabilities as well, insofar as work inspection and enforcement measures tend to contribute toward greater inclusion of males with disabilities than females with disabilities. Of the 14,438 persons with disabilities in the job market in the period January-July 2010, 9,272 were men and 5,166 women.

226. Labor oversight and enforcement promotes the inclusion of people with disabilities by requiring compliance with the legal quotas set out in Article 93 of Law No. 8213/91, encouraging their inclusion in the learning process, for the purpose of accelerating the segment's qualification, without prejudice to its labor rights. The inspection reports entered revealed the existence of the following types of disabilities: physical, auditory, visual, mental, multiple, and rehabilitation, the latter referring to individuals submitted to vocational rehabilitation within the Social Security system. Both in the inclusion of apprentices and non-apprentices, the largest share disabilities were physical, with visual and multiple disabilities registering the lowest totals, perfectly in keeping with the proportion of this segment in relation to the total population of persons with disabilities. Inspection and enforcement initiatives have invariably steered businesses toward including all persons with disabilities, with a view to incorporating greater diversity in the workplace and avoid discriminatory practices. In "Including Persons with Disabilities in the Job Market" ("A Inclusão das Pessoas com Deficiência no Mercado de Trabalho"), the following statement appears on page 29: "How is the Company's practice of considering only one type of disability viewed?" to which respondents replied: "The practice is viewed as a discriminatory practice. The purpose of the legislation is to ensure access to jobs for all categories of disability (Article 7, XXXI, of the Federal Constitution c / c Article 4 of Recommendation No. 168 ILO)."

227. In addition to the applicable legal provisions, guarantees to employees with disabilities have been secured in the labor relations field through collective bargaining procedures, a propitious channel for expanding and improving individual rights, in addition to incorporating new advances. The Inter-Union Department of Statistics and Socioeconomic Studies (Departamento Intersindical de Estatística e Estudos Socioeconômicos – DIEESE) performed a study to identify the clauses contained in agreements and collective bargaining agreements that provide safeguards for persons with disabilities. To this end, analyses of the legal instruments entered in the Collective Bargaining Monitoring System (Sistema de Acompanhamento de Contratações Coletivas – SACC-DIEESE) were conducted. The effort centered on developing an overview of the negotiating process on the issue, with a view to identifying its prevalence in the resulting legal instruments signed by the various professional categories, as well as the nature of the guarantees provided. The purpose is to disseminate the achievements of the Brazilian trade union movement in this field and contribute to the considerations of the subject for purposes of future trade union actions.

228. The surveys on guarantees for persons with disabilities were conducted pursuant to the agreements and collective bargaining agreements concluded with 204 professional categories on the SACC-DIEESE the panel. Analyses were performed of documents signed in 2005 and, absent these, in 2004. Of all the negotiating units examined, a total of 72 – or 35% of the sample – include provisions in the area and 20 set forth more than one contractual clause on persons with disabilities. The manufacturing registers the highest percentage of negotiations on these matters: almost half (43%) of all agreements provide guarantees related to persons with disabilities. Of particular note are the agreement governing workers in urban industries, of which 14 – out of a total of 20 – address the

question. In the service sector, approximately 33% of all agreements included clauses of this nature. Most noteworthy are the collective bargaining agreements in data processing sector, where 6 of the 7 negotiating units raise the subject. In the commercial sector, 3 of the 19 agreement reviewed include provisions on the issue. With regard to the rural sector, of the 9 of the units on the SACC-DIEESE, only 1 provides guarantees to persons with disabilities.

229. Within the framework of the National Plan for the Rights of Persons with Disabilities, a Continuing Social Assistance Benefit (Benefício de Prestação Continuada da Assistência Social – BPC) was established to assist primarily recipients 16-45 years of age interested in working, but who have encountered difficulties in their efforts to secure the requisite qualifications and professional placement, Decree No. 31 of August 2011, which regulates Law No. 12470 of 2011, enables recipients who have lost their jobs the opportunity to return to the BPC program. The rule applies to those who have no social security benefits and is valid only after unemployment benefits have expired. In these cases, no tests are required to validate or certify the disability, which is subject to review every two years. With respect to apprentices 14-18 years of age, income from employment activities may be added to the benefit for a period of up to two years, to which end total household income is not computed for purposes of accessing the BPC. Access to qualification and employment is provided through the agencies with primary responsibility for social assistance, education, health, work and employment, and science and technology policies and social entities.

230. Finally, launch of the National Plan for the Elimination of Slave Labor by the President (Plano Nacional para a Erradicação do Trabalho Escravo, o Presidente) in March 2003 required that all government institutions adopt tangible measures toward the elimination of slave labor. Since 1995, the Ministry of Labor and Employment has conducted innumerable inspection visits, through the Special Mobile Enforcement Group (Grupo Especial de Fiscalização Móvel) and staff of the Regional Labor Precincts (Delegacias Regionais do Trabalho), subordinate bodies of the Secretariat for Labor Inspection (Secretaria de Inspeção do Trabalho), to rural properties suspected of engaging in slave labor. Through these many years of experience, it has become evident that defeating practices aimed at submitting workers to slave labor requires effective action that goes beyond the mere rescue of workers trapped in the subhuman conditions imposed by contemporary slavery. Brazil is a signatory of the various international agreements committing the country to the elimination of slave labor, most notably ILO Conventions No. 29 (Decree No. 41721/1957) and No. 105 (Decree No. 58822/1966), the 1926 Convention on Slavery (Decree No. 58563/1966), and the American Convention on Human Rights (Pact of San José, Costa Rica) – Decree No. 678/1992), all ratified by Brazil as ordinary legal statutes incorporated under the 1988 Federal Constitution, each of which provides for the adoption of immediate legislative and other measures to eliminate slave labor. From 1995 to 2010, the Special Mobile Enforcement Group (Grupo Especial de Fiscalização Móvel – GEFM) launched 1,007 operations throughout Brazil involving 2,673 inspected establishments and rescued a total of 37,870 workers disburged from the country's northern to southern tips from conditions analogous to slavery, in addition to issuing nearly 30,000 citation for labor code violations. In September 2008, the Federal Government launched the 2ns National Plan for the Elimination of Slave Labor. Among the measures adopted are improved inspection and logistical support to the Ministry of Labor and Employment's mobile group, the body most responsible for freeing countless workers across the country.

## Article 28 – Adequate standard of living and social protection

231. With regard to welfare provided through the social security system and the question of pensions, persons with pension coverage under the social security system and the question of pensions, persons with disabilities receive equal treatment in relation to other beneficiaries exercising paid activities and are eligible to contribute voluntarily for purposes of obtaining benefits. No specific benefits are provided to persons with disabilities due to the absence of a regulation in this sphere, although article 40, paragraph 4, sub-section I, and article 201, paragraph 1, of Federal Constitution provide for an exception, authorizing the adoption distinct requirements and criteria for the grant of pension benefits to those registered under the to the beneficiaries of the General Social Security Regime and the Unified Legal System of the Federal Civil Service (Regime Geral de Previdência Social e Regime Jurídico Único dos Servidores Cíveis da União), in the case of beneficiaries with disabilities, pursuant to a specific standard enacted under a supplementary law.

232. Adequate quality of life and social protection to persons with disabilities are guaranteed under the Constitution in article 24 – establishing the concurrent jurisdiction of the federal, state, and Federal District to legislate on the protection and social integration of persons with disabilities – and 208, paragraph 1, mandating that the State promote comprehensive health care programs for children and adolescents, to which end non-governmental entities may participate, in accordance with the principles on the creation of specialized prevention care for people with disabilities, as well as the social integration of adolescents with disabilities through training programs for work and day-to-day living and facilitated access to collective goods and services, based on the elimination of prejudice and architectural obstacles.

233. With a view to combating poverty, ensuring social protection, the provision of social conditions to meet contingencies, and universal social rights, the Brazilian Government provides the Continuous Social Assistance Cash Benefit of (Benefício de Prestação Continuada da Assistência Social – BPC), a constitutional right regulated by Law No. 8742 of December 7, 1993 (Organic Law on Social Assistance Pensions – LOAS), Decree No. 6214 of September 26, 2007, and Decree No. 6564 of September 12, 2008. The program consist in payment of a monthly minimum wage to older persons over the age of 65 older and to persons with disabilities of any age whose disability precludes the possibility of independent living and work. The BPC is directed at older persons or disabled persons in extreme poverty, based on a per capita monthly family income of less than one-fourth ( $\frac{1}{4}$ ) of the minimum wage, in other families in situations of social vulnerability.

234. As such, BPC is a right of citizens and constitutes a non-contributory, non-permanent, individual, and non-transferrable benefit. It offers a basic, continuing, and certain income source and is aimed at meeting the fundamental survival needs of individuals. Currently, the BPC provides coverage to 3.8 million people across the country, 2.1 million persons with disabilities and 1.7 million older persons. The benefit is part of the basic social protection net provided under the Unified Social Assistance System (Sistema Único de Assistência Social – SUAS). BPC beneficiaries are tracked by the Municipal Social Assistance Secretariats through the Social Assistance Reference Centers, with a view to ensuring access to other social policies, as provided for in article 24, paragraph 2, of the LOAS, based on the principle of full protection. The National Plan for the Rights of Persons with Disabilities expanded the concept of the BPC to other areas, including education and work, as outlined in the responses to articles 24 and 27.

235. The National Plan for the Rights of Persons with Disabilities also provides for the establishment of Reference Day Centers (Centros-Dia de Referência) in all states to provide assistance and a communal environment to persons with disabilities over the age of

18 years in situations of social vulnerability. The Centers provide day-care to persons with disabilities who are highly dependent and poor by promoting the autonomy of beneficiaries and their family caregivers. A total of 27 units will be established, one in each state and the Federal District, in cities with large concentrations of BPC beneficiaries. Each unit will have the capacity to serve 30 persons per shift. The Federal will transfer \$ 20,000.00 to each Center to assemble, followed R\$ 40,000.00 to cover costs associated with technical staff, materials, and maintenance.

### **Article 29 – Participation in political and public life**

236. The Brazilian State guarantees persons with disabilities political rights and the opportunity to fully exercise those rights through policies aimed at enabling their full and effective participation in political and public life. The related measures are regulated by Resolution No. 21008 dated March 5, 2002, of the Superior Electoral Court (Tribunal Superior Eleitoral – TSE), which in providing the right of persons with disabilities to vote mandates the creation of polling stations implemented in accessible locations situated near parking establishments and offering basic facilities, including appropriate restrooms. The Resolution requires that all the electronic voting machines be with Braille markings and sound devices for voters with visual impairments. It also guarantees a LIBRAS interpretation window or captions in all election campaign programming and ads broadcast on television.

237. However, full political participation by persons with disabilities has not yet been achieved due to a number of obstacles, including a lack of access to information on the political platforms of candidates and their proposals. Often, election campaigns are not disseminated in accessible formats, particularly in regard to candidate and party Web sites and printed materials. Likewise, in interior areas of the country access to polling stations is more difficult, hindering the participation of persons with reduced mobility.

238. To promote the political rights of persons with disabilities, the National Council on the Rights of Persons with Disabilities (Conselho Nacional dos Direitos da Pessoa com Deficiência – CONADE), a component body of the Secretariat for Human Rights of the Office of the President of the Republic, is a high-level decision-making body designed to monitor and evaluate the development of national policies for the inclusion of persons with disabilities as well as sector-specific educational, health, labor, social assistance, transport, culture, tourism, sport, leisure and urban policies directed at the segment. By the same token, a policy program is in place to promote the implementation of rights councils in every state municipality.

### **Article 30 – Participation in cultural life, recreation, leisure and sport**

239. With a view to promoting the access to culture, in October 2008 the Ministry of Culture organized the National Workshop on the Recommendation of Cultural Policies for the Inclusion of Persons with Disabilities (Oficina Nacional de Indicação de Políticas Públicas Culturais para Inclusão de Pessoas com Deficiência) in Rio de Janeiro. The Workshop included the participation of persons with disabilities in discussing and recommending the strategies that should guide cultural policies for the segment. The initiative led to the publication of “Nothing About Us Without Us” (“Nada Sobre Nós Sem Nós”) (in book and accessible DVD format with audiovisual material) containing, in addition to the presentations and lectures held during the Workshop, the results of the discussions of participants who met in four groups to recommend guidelines and measures in connection with funding, dissemination, heritage, and accessibility. The recommendations were not only aimed at audiences made up of persons with disabilities,

but promoting artists with disabilities as well. The book also includes a technical note setting out the key demands of participants in the Accessibility working group. The technical note was submitted to the secretariats and entities of the Ministry of Culture. Specifically, the note addresses the following questions: the Federal Law on Incentives to Culture (Rouanet Law) (which provides sponsoring companies with as much of a 4% deduction in their income tax obligations, provided they hold 20% of the total funding amount), Public Calls, Web Sites, Accessibility to Cultural Equipment and Goods, Accessible Books, Cultural Productions, and Dialogue with other Ministries.

240. The Ministry of Culture also operates the Cultural Points (Pontos de Cultura), which are tasked with articulating and driving existing measures in communities. The Cultural Points are not defined by a uniform model of physical facilities, scheduling, or activities. Rather, the initiative is aimed at driving the execution of measures in connection with Art and Education, Citizenship with Culture, and Culture with the Solidarity Economy. Of the existing Cultural Points, many work with children, while four offer specific measures aimed at children with disabilities, namely the “Salvador Association of Parents and Friends of Exception Children” (“APAE – Associação dos Pais e Amigos dos Excepcionais de Salvador”), Salvador/Bahia; the Louis Braille Cultural Center” (“Centro Cultural Louis Braille”), Campinas, São Paulo; the “Path Foundation” (“Fundação do Caminho”), Alagoinhas, Bahia; and the “Institute for Education and Rehabilitation of the Blind” (“Instituto de Educação e Reabilitação de Cegos – IERC”), Natal, Rio Grande do Norte, Cultural Points. The measures implemented within the framework of Ludicidades include the Small Cultural Points (Pontinhos de Cultura), which aim to mobilize, raise awareness, and develop activities for the effectuation and dissemination of the rights of children and adolescents, from the perspective of inclusion and respect for differences. All of the Cultural Points, Small Cultural Points, and pertinent actions include measures that contribute to equal access for children with disabilities to ensure they participate in artistic and cultural activities, in addition to games, recreation, leisure, and sports.

241. Other initiatives include the launch of public calls on support to public libraries, which provide for the contribution of resources for the purpose of adapting library spaces and furniture and collections for persons with disabilities, and the public call on accessibility, the purpose of which is to provide funding to the production, dissemination, and distribution of books in accessible format, meaning books adapted to the Braille and Meccadaisy – audio books (human and synthesized voice), in addition to capacity building and dissemination measures. One of the categories of the public call on support to public libraries involves support to accessible libraries, the aim of which is to promote projects in public state and municipal libraries on the implementation and expansion of services in the following sub-categories: acquisition of collections, capacity building in library management, socio-cultural programs, acquisitions of equipment, furniture and environmental facilities, expansion or renovation of physical spaces. To secure progress on the question of accessibility in the field of reading, the Ministries of Culture and Education have undertaken efforts to approve a decree regulating Law No. 10753 dated August 31, 2003, which provides for the implementation of the “National Policy on Books and Reading” (“Política Nacional do Livro e Leitura”) and centers on key issues relating to accessibility to books and reading in the use of cultural goods and services, with a view to ensuring a specific chapter is included regulating the production and provision of books in accessible format. In practical terms, since 2009 the Ministry of Culture has required, through the Directorate on Books, Reading, and Literature (Diretoria de Livro, Leitura e Literatura), a minimum of 5% accessible reading materials in the procurement notices in the area of books, reading, and literature aimed at the purchase of new collections, in addition to ensuring differentiated selection criteria scores for projects that promote accessibility.

242. One of the challenges in the audiovisual field is the need to secure progress on the issue of guaranteeing the supply of accessibility resources, including captions, audio description, and LIBRAS interpreting for nations films. With a view to meeting this challenge, implementation of a requirement that projects supported through the Laws on Incentives and Sponsorships under consideration by the Ministry of Culture give specific attention to accessibility measures for persons with disabilities. In addition, film showings with captions and audio description are organized by Cinematica Brasileira, a component of the Ministry of Culture.

243. Brazil has sought to strengthen human rights education and culture, with a view to fostering a new approach to the exercise of solidarity, respect for diversity, and tolerance. The South American Human Rights Film Showing, held annually in multiple Brazilian state capitals across the five regions of Brazil, is organized by the Secretariat for Human Rights of the Office of the President of the Republic and produced by Cinematica Brasileira, with the sponsorship of PETROBRAS and the support of SESC-SP, TV-Brasil, and the Ministry of External Relations. The free film sessions offered to audiences in accessible theaters for persons with disabilities invites audiences to partake of a cinematographic experience and sensibility capable of synthesizing current human rights themes, while fostering reflection and the construction of identities through diversity. Provided for as a component of the Human Rights Education and Culture axes of the 3<sup>rd</sup> National Program on Human Rights (Programa Nacional de Direitos Humanos – PNDH-3), the Showing serves to transform film into an important instrument for discussion, promotion, and respect for fundamental rights.

244. In the field of accessibility to leisure and tourism, since drafting of the National Tourism Plan 2007-2010 (Plano Nacional de Turismo 2007-2010), the Brazilian State has given priority to social inclusion, underscoring its role in driving development and job and income generation in the country, in addition to fighting for the reduction of social inequality. To this end, persons with disabilities are incorporated in the social tourism segment, which consists of conducting and implementing tourist activities that promote equal opportunity, equity, solidarity, and the exercise of citizenship from an inclusive perspective. The initiative, further, presupposes the guaranteed access of all people, irrespective of differences, as a necessary component of equal access, and accepting diversity as the rule, not the exception. In this way the Brazilian State has undertaken to raise awareness and disseminate guidance on accessibility in the diversity of sectors associated directly or indirectly to tourist activities, including the tourist services, equipment, and activities industry. In this light, the Ministry of Tourism has adopted a number of measures to support and stimulate the participation of persons with disabilities in tourist activities, with special emphasis on dissemination of the “Tourism and Accessibility” (“Turismo e Acessibilidade”) Handbook of Guidelines. These measures seek to promote the development of tourism policies for persons with disabilities and support other pertinent actions aimed at the inclusion of persons with disabilities or reduced mobility in tourist activities throughout the country.

245. Notable examples are execution of the Accessible Cities Is Human Rights Project (Projeto Cidade Acessível é Direitos Humanos) launched by the Federal Government in 2010, with the participation of the municipalities of Campinas, Fortaleza, Goiânia, Joinville, Rio de Janeiro, and Uberlândia, all of which have accessibility measures in place and forged a partnership with the National Secretariat for the Rights of Persons with Disabilities, a component of the Secretariat for Human Rights of the Office of the President of the Republic, with a view to strengthening and expanding existing inclusion and accessibility policies.

246. The measures adopted to ensure persons with disabilities the right of access to sports and leisure center on two social programs sponsored by the Ministry of Sport: the Second

Half (Segundo Tempo) and the Sport and Leisure in the City (Esporte e Lazer da Cidade) initiatives, the progress and difficulties of which warrant analysis. The Second Half Program is based on the constitutional principle that the access to sport and leisure are direct rights and their supply, the duty of the State. Given the exclusion of Brazilian youth with disabilities from sports, in 2008 the Ministry of Sport recommended organization of a pilot project under the Second Half Program through the National Secretariat of Educational Sport (Secretaria Nacional de Esporte Educacional) aimed at developing a proposing a methodology to assist youth with disabilities (sight, hearing, intellectual, and physical) in its centers. The objective was to democratize the access to quality educational sports as a means to ensure social inclusion and contribute in this way to effectuating the rights and building citizenship for children and youth with disabilities in situations of social vulnerability. The pilot project, one of the Special Projects of the Second Half Programs, designated "Persons with Disabilities" ("Pessoa com Deficiência") was developed by the Federal University of Pelotas. A total of 70% of the one-year initiative's target audience was made up of children and youth with disabilities (sight, hearing, intellectual, and physical). The sport activities offered at the centers were educational in nature, centered on the full development of children and adolescents, with a view to fostering self-awareness of their own bodies, discovering their limits, increasing their potential, developing the spirit of solidarity, mutual cooperation, and respect for the collective. The instruction-learning process was aimed at stimulating understanding of group life, the rules necessary for the organization of activities, shared decision making, and expression of emotions, for the purpose of enabling individuals to recognize their rights and duties for healthy social living. Determination of the modalities developed for recipients took into account the broader context: specificity of the disabilities identified, availability of physical and human resources to develop those specificities, organization, term of the Project, to which end the Project was considered within the scope of a Pedagogical Cycle, in addition to the months of Planning and Fractioning aimed at providing at least three different sport activities in the prescribed time.

247. In addition to offering sports activities, complementary activities were provided in connection with education, health, culture, the environment, and other areas, including:

- Educational Activities: aimed at establishing a permanent relationship with school learning process, with a view to offering participants the necessary confidence to overcome barriers in the instruction-learning, reading, expression, and verbal or body language development and construction processes;
- Cultural Activities: centered on guiding the development of skills for the expression of creativity and perception, stimulating activities relating to artistic expression, such as: dance, music, theater, poetry, paintings, drawing, construction, and model building, among others;
- Health Activities: intended to foster the formation of concepts and habits capable of raising the awareness of participants on the necessary conditions for developing and/or maintaining good health;
- Environmental Activities: sought to promote the formation of concepts and habits capable of raising participant awareness on the conditions underlying relations and coexistence with the environment.

248. Based on the results of the Pilot Project, centers will be implemented in Brazil based on a public notice issued by the National Secretariat for Educational Sport (Secretaria Nacional de Esporte Educacional) to meet the needs of this segment. In addition to the specific measure, all standard Second Half Centers include, from the time of implementation, assistance initiatives for children and youth with one or more of the four disabilities set out above, in accordance with the objectives of the Program: social



inclusion. Another measure adopted by the National Secretariat for Educational Sport involves the incorporation of specific chapters on the issue in the two editions of didactic materials corresponding to the Second Half Program, as well as capacity building for all professionals engaged in the Program centers.

249. The City Sports and Leisure Program (Programa Esporte e Lazer da Cidade) is a core component of the sport, recreation, and leisure policy initiatives aimed at leveraging government policies on behalf of a better quality of life for individuals and universal rights for all Brazilian citizens. As part of the effort to develop a broad public and social initiative, the Program's primary objective is to expand, democratize, and universalize access to the participation and enjoyment of recreational sports and leisure, integrating the respective actions to other public policies and promoting human development and social inclusion for all age groups, including persons with disabilities. One of the Program's requirements in the effort to achieve this goal involves including activities and openings for persons with disabilities. Since 2003, the targets in terms of serving the segment have been expanded gradually. Through 2009, a total of 82,357 persons with disabilities were enrolled in recreational sports and leisure activities. It is of fundamental importance to provide this target audience with measures encompassing all ages, in particular given the trend line in Brazil, at least according to IBGE data, toward an ageing population in the medium term and the far larger number of persons with disabilities among adults and older persons than among children and young adults. The primary obstacle confronted by the Ministry of Sports and its partners in regard to ensuring inclusion centers on the absence of an adequate body of knowledge in the sports and leisure field on the issue. With a view to building alternatives to address this gap, the question has been considered in capacity building initiatives for social agents engaged in the Program. In addition, agreements have been signed with entities with experience in working with persons with disabilities (the Associations of Parents and Friends of Special Needs Individuals – APAEs and the Associations of Persons with Disabilities), in the hope that these can contribute to developing alternative strategies capable of assisting partners in the social inclusion process. While recognizing that these measures have not yet been able to meet the challenge of ensuring access to sports and leisure as an underlying social right of persons with disabilities, the Brazilian State believes the progress made to date will contribute progressively toward accomplishment of the original goal.

250. Regarding high-performance sports for people with disabilities, it is incumbent upon the State to provide conditions for the development of Brazilian sports, in compliance with Art. 217, II of the 1988 Constitution of the Federative Republic of Brazil: It is incumbent upon the State to foster the formal and informal practice of sports as an individual right, with due regard for the following: II. Allocation of public funds for promoting educational sports on a priority basis and, in specific cases, high-performance sports ... while respecting the autonomy of leading sports entities and associations as far as their organization and operation are concerned. The legal foundation for supporting High-performance Sports as regards people with disabilities is found in Art. 7 of Law 9615 of 24 March 1998, which provides for the allocation of funds by the Ministry of Sports. Accordingly, two specific actions aimed at supporting sports events for people with disabilities were initially included in the Brazil and High-Performance Sports Program under the Ministry of Sports' Multiyear Plan. These actions called for the participation of a Brazilian delegation in national and international high-performance sports events for people with disabilities; and for the promotion of high-performance sports events for people with disabilities. In 2006 these actions were merged into a single action encompassing both aspects, so as to expedite attention to their beneficiaries. Recently priority has been assigned to the attention provided by leading sports entities that focus on people with disabilities under different sections of the High-performance Sports Office, such as those devoted to Human Resources Qualification, Athlete Evaluation by the CENESP Network,

Implementation and Operation of Basic High-performance Sports Nuclei, Implementation and Operation of High-performance Sports Training Center, Participation of a Brazilian delegation in national and international high-performance sports competitions, and Awarding of Athlete Grants according to budgetary possibilities and the legislation in force.

251. The other strategic actions, as well as all the Programs and Projects implemented by the Ministry of Sports directly or indirectly benefit people with disabilities and seek to facilitate their participation and/or inclusion. It may be said that, owing to the government's standing support of sports for people with disabilities, particularly through the establishment and operation of the High-performance Sports Basic Nuclei at universities and of state and municipal Sports Departments, many new athletes have been discovered, who automatically become members of Brazilian delegations in their respective modalities; this has had direct influence on scores and on our country's ranking in world Paralympics sports competitions. In addition, there has been stronger support for promoting or holding national sports events, as well as for the participation of Brazilian delegations in international high-performance competitions for people with disabilities. This has fostered basic sports work aimed at people with disabilities, and has had great relevance for the training and replacement of athletes for national participation in both individual and team modalities.

252. Between 2005 and 2009, out of the 10,254 athletes benefited by the Athlete Grant Program, 2,971 were athletes with disabilities, who accounted for 30 percent of the grants awarded by the Ministry of Sports. These athletes with disabilities fell into the Paralympics Grant, National, International, and Student categories. In addition, 50 percent of the Brazilian Paralympics Delegation in Beijing was made up of Athlete Grant recipients. In recent months, Athlete Grant coaches have taken part in events held by the Brazilian Paralympics Committee-Athletics, Swimming, and Weight Lifting Caixa Circuit to dispense individual attention to athletes who are insufficiently informed about the program. Thanks to the Ministry of Sports' support, the results derived from this action are the best possible. A review of the four last Paralympics shows that the higher number of medals won has allowed Brazil to jump from the 37th position among 189 countries in Atlanta/1996, with 21 medals (2 gold, 6 silver, and 13 bronze) to the 24th position in Sidney/2000, with 22 medals (6 gold, 10n silver, and 6 bronze); to the 14th position in Athens/2004, with 33 medals (14 gold, 12 silver, and 7 bronze); and finally to the ninth position in Beijing/2008, with 47 medals (16 gold, 14 silver, and 17 bronze). These results show the priority and the earnestness accorded the practice of sports by people with disabilities.

### **Article 31 – Statistics and data collection**

253. According to Article 17 of Law 7.853, of 24 October 1989, the 1990 Census has included and subsequent censuses will include questions about the problems of people with disabilities so as to bring up-to-date the number of people with disabilities in the country. Since the planning of the 2000 Census the Brazilian Geography and Statistics Institute (IBGE), which is a member of the Washington Group (WG) on Disability Statistics under the United Nations since its establishment in 2001, has undertaken studies in partnership with the National Office for the Promotion of the Rights of People with Disabilities. In view of this objective, while the 2010 Census was being prepared in 2006, cognitive tests were held in three Brazilian municipalities: Rio de Janeiro, in the Southeast; Curitiba, in the South; and Olinda, in the Northeast. Selection in the three localities observed three assumptions: the existence of a registry of people with disabilities interviewed for the 2000 Census; a quota sample for each field tested; a selection of areas in the different census sectors with the largest concentration of people with disabilities. The questionnaire tested items suggested by the Washington Group, including four additional questions used in the

2000 Census. The order of the categories of answers to the additional questions was altered, based on the results of the 2000 Census Pilot Testing, while the basic questions and respective answer categories were maintained.

254. Results showed that the answers to the additional questions were in general consistent with the basic questions, as well as with the answers to the questions of the 2000 Census, but seemed to identify some problems better. Moreover, there was good understanding of the basic questions, although results were less satisfactory in the case of children with mental problems. In general, the amount of false negatives or false positives was small. Assessment of the lessons learned on the basis of these results suggested the need for between-censuses estimates for harmonizing indicators. The lessons learned were applied by IBGE to the 2010 Census, whose results are still being analyzed and thus the release of broken down data is not yet possible.

### **Article 32 – International cooperation**

255. For the implementation of the Convention on the Rights of Persons with Disabilities, Brazil adopted three fundamental lines: (a) coordination of across-the-border policies for social inclusion and the promotion of rights and citizenship, with emphasis on human rights; (b) treatment of social inclusion from the standpoint of the fight against hunger and poverty; and (c) promotion of a dialogue with organized civil society and strengthening of social control over government policies and actions. In regard to international cooperation, the model adopted by Brazil for cooperation on human rights in connection with people with disabilities favors the exchange of experiences with a view to the establishment of an across-the-border, inter-sector agenda that encompasses all the rights of people with disabilities (civil, political, social, economic, cultural, technological, and environmental rights). To this end, investments should be made on the training of government officials and on a dialogue with society. An example of this cooperation model is the agreement celebrated with Haiti for the “enhancement of the political and institutional capacity of Haitian government and nongovernmental agents for the promotion and protection of the rights of people with disabilities.”

256. In addition, conscious of its commitments as a member of international society, in areas under its domain, Brazil held a seminar on the Human Rights of people with Disabilities in the Community of Portuguese-speaking Countries (CPLP) in Brasilia, October 25-27, 2011, attended by two representatives from each member country (one from the technology area and one from the political area). The purpose was the establishment of a programmatic agenda on community cooperation, with emphasis on the promotion of rights, for the definition of community contents and mechanisms to draft cooperation proposals on the matter. The seminar was also attended by representatives from various Brazilian government agencies, international organizations observers with offices in Brasilia, academicians, and representatives from civil society, particularly from the Federation of Organizations of People with Disabilities in Portuguese-speaking Countries (FDLP). The seminar drafted a proposal for a CPLP Cooperation Program on the human rights of people with disabilities.

257. In Brazil’s view, it is important to establish a connection between the actors that have technical command over issues related to the various specific aspects of attention to people with disabilities (access, assurance of employment, vocational qualification, health and rehabilitation, inclusive education, and appropriate housing, among others) and those that have the means to support investments and the capability for transferring technology. This coordination should take into account above all the needs of each country, especially of those of less relative economic development; this is why Brazil has assigned priority to

cooperation projects under Mercosur and the Organization of American States (OAS) in compliance with the commitments it has undertaken.

### **Article 33 – National implementation and monitoring**

258. As regards the obligation to set up government bodies charged with issues related to the Convention's implementation, establishing or appointing a coordination mechanism to facilitate the adoption of measures in different sectors and at different levels, the Brazilian State has taken the requisite steps to comply with this provision – Article 14, IV of Decree No. 7256 of 4 August 2010 has entrusted the National Human Rights Office under the President's Office with the task of "coordinating, orienting, and following up the measures for promoting, guaranteeing, and protecting the provisions of the Convention on the Rights of Persons with Disabilities." Thus, the Federal Public Administration has now at its disposal a body responsible for coordinating public policies, which plays the central role in respect of the subject, so as to ensure observance of the rights covered by the Convention. In compliance with the Convention, government agencies have adopted internal norms under which issues related to this target public have been incorporated into the agenda of the various services provided for these citizens and into their programs and functions. Budget appropriations for the implementation of public policies aimed at promoting, protecting, and guaranteeing rights have increased after the Convention's ratification: 8.7 billion reais in 2008; 10.3 billion reais in 2009; and 12 billion reais in 2010. The 2011 budget appropriates 13.6 billion reais for public policies aimed at people with disabilities.

259. As regards the other branches of government, measures have been taken to address access issues, as well as other measures needed for compliance with the Convention's provisions. In the case of the Judiciary, this happened through Recommendation No. 27/2009 issued by the National Council of Justice (CNJ), instructing Courts to adopt measures for the elimination of physical, architectonic, communication, and attitude barriers, so as to promote full, unrestricted access of people with disabilities to their facilities, to the services they provide, and to their careers, as well as measures for raising the awareness of their employees and persons subject to their jurisdiction of the importance of access as a guarantee of full enjoyment of rights. CNJ has further recommended the establishment of access commissions for planning, designing, and following up projects and objectives aimed at the promotion of access for people with disabilities. At the Legislative, the Senate has adopted a Program on the Promotion of People with Disabilities' Access, Inclusion, and Valorization, while the Chamber of Deputies' Access Program purports to meet the needs of people with disabilities, eliminating architectonic, attitude, and communication barriers, in addition to providing for the training of staff that deals with this public. A future challenge will be the coordination of the countrywide Convention's implementation with the states and municipalities. Under the federative principle that governs the Brazilian State, responsibility for national implementation falls on the Federal Government, while it falls on the state and municipal governments to implement the Convention's provisions in their areas of competence, thereby guaranteeing the rights established under the Convention.

260. As regards the establishment of a legal and institutional framework that includes one or more than one independent mechanism to promote, protect, and monitor the Convention's implementation, the National Council for the Protection of the Rights of People with Disabilities (CONADE), having in view the principles related to the legal status and functioning of national institutions for the promotion and protection of human rights, partially discharges this obligation, as it forms part of the organizations that represent people with disabilities in civil society. It should be noted, though, that CONADE's membership consists of representatives of both government and civil society institutions, whereas the Convention calls for an independent monitoring mechanism, made

up solely of civil society representatives. Its collegiate composition would thus pose an actual limitation to assigning to CONADE the role established under the Convention to an independent mechanism. As CONADE is structured on the model adopted by the Brazilian State for the establishment of rights councils, this is an issue that requires thorough analysis as well as adjustment measures in the future for the reformulation of existing mechanisms and the establishment of new ones. In the meantime, though, CONADE has made adjustments in its bylaws to allow it to participate in the fulfillment of monitoring obligations under the Convention.

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