



General Assembly

Distr.
LIMITED

A/HRC/WG.6/1/BRA/3
[DATE]

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
First session
Geneva, 7-18 April 2008

ADVANCE UNEDITED VERSION
25 FEBRUARY 2008

SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN
RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
RESOLUTION 5/1 OF THE HUMAN RIGHTS COUNCIL

Brazil

This report is a summary of 22 stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions of the Office of the High Commissioner for Human Rights (OHCHR). Information included therein has been systematically referenced in endnotes and, to the extent possible, original text submitted has not been altered. Lack of information on specific issues is due to the absence of submissions by stakeholders regarding these particular issues. All submissions received are available on OHCHR website. The periodicity of the review for the first cycle being of four years, information reflected in this report mostly relates to events occurred after 1 January 2004.

I. BACKGROUND AND FRAMEWORK

A. Constitutional and legislative framework

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

2. Conectas referred to Constitutional Amendment 45 adopted in 2005, which affords constitutional status to human rights treaties, introducing the fundamental right to prompt legal proceedings and recognizing the possibility of federalizing severe human rights violations that have not been properly investigated at state-level.³ Human Rights Watch (HRW) noted however, that the transfer of jurisdiction can only happen if requested by the Federal Prosecutor General and accepted by the Superior Tribunal of Justice. To date, there have been no such transfers.⁴ Front Line also noted that international human rights norms incorporated into Brazilian law have rarely been applied by courts or cited by legislators and representatives of the executive branch while drafting bills. Front Line further noted that Brazilian organizations have increasingly used the Inter-American Human Rights System when defenders are threatened or attacked.⁵

3. Conselho Indígena de Roraima, the Rainforest Foundation-US, the Forest Peoples Programme, and the Indigenous Peoples Law and Policy Program of the University of Arizona (CIR-RF/US-FPP-IPLPP/UA) referred to constitutional protection that must be guaranteed to indigenous peoples by *all* levels of government, recognizing the right to the exclusive use and possession of their traditional lands, to social organization, customs, languages and traditions.⁶ The Centre on Housing Rights and Evictions (COHRE) referred also to constitutional guarantees to access land and housing although they have never been put in practice. COHRE noted that some laws must still be brought in compliance with the Constitution, the City Statute’s principles and related instruments, such as the National Law of Urban Parceling, currently being revised by the Federal Chamber of Deputies, to consider slum upgrading, regularization, and urban and environmental licensing within the competence of the Municipalities.⁷

4. Article 19 noted that while the right to freedom of expression and access to information is protected by the Constitution, legislative bodies have failed to safeguard them properly. The 1967 Press Law and the 1962 Telecommunications Code, have been repeatedly modified but were never entirely revoked, creating legal uncertainty, with contrasting interpretations and dubious provisions that allow for abuses against freedom of expression.⁸ A draft bill on access to information presented in 2003 to the legislative, has yet to be reviewed and voted on.⁹ Reporters Without Borders (RSF) stated that the federal government has promised to expand freedom of expression. President Lula signed the Interamerican Press Association

(IAPA) Chapultepec Declaration on freedom of expression and information on 3 May 2006.¹⁰

5. Ipas indicated that an advanced legal framework for the protection of the right to health guides Brazil's main policies on reproductive health.¹¹ Rede Femenista noted that in 2005, a Tripartite Commission was established for the revision of the punitive law concerning the voluntary interruption of pregnancy. The resulting draft law went to the National Congress and was not voted within the required time. Ipas reported strong pressures by conservative sectors, including within the Catholic Church, against the decriminalization of abortion and its legalization.¹²

6. AI reported that the process of implementing the Rome Statute in Brazil's national legislation appears to have stalled. After submission of draft legislation to the office of the Presidential Chief of Staff in 2003, and following constitutional concerns raised, a revised draft and the legal memorandum were completed in 2006. In August 2007, the Military Prosecutor's office published the final version of the legislation; however, it still remains to be submitted to Congress.¹³

B. Institutional and human rights structure

7. AI indicated that in 2004, the 9th National Human Rights Conference voted to reform the Council for the Protection of the Human Being into the National Human Rights Council, a body to be made up of 50% of civil society representatives and of 50% of authorities. This fell short of the aim of the human rights movement to create a national human rights institution in line with the Paris Principles. In 2006, draft legislation was placed before Congress to create the Council.¹⁴

8. Fundamental Rights Study Nucleus (NEDF) noted a strong public will and clear political consensus in the idea that the State must achieve racial equality. It reported that many social policies even when successful – are replaced with new ones by new administrations. In 1996, after the launch of the National Human Rights Programme, a Human Rights Secretariat was created at the federal level and had an active role at the Durban Conference. Later a National Council to fight discrimination was instituted. In 2003, a "Special Secretariat for the Promotion of Racial Equality Policies" directly subordinated to the President was created.¹⁵

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

10. CIR-RF/US-FPP-IPLPP/UA noted that the National Foundation for Indians (Fundacao Nacional do Indio - FUNAI) is the federal body responsible for establishing policy for indigenous peoples. It is also the lead agency for demarcation and titling of lands, the removal of non-indigenous occupants, and the safety of indigenous peoples with the assistance of the Ministry of Justice and subsidiary bodies (Federal Police) and the Ministry of Defense - to the extent that armed forces and other resources are needed. These four entities have not been able to carry out Brazil's international duties and obligations towards the indigenous peoples of Raposa.¹⁷

C. Policy measures

11. AI noted that short-term political interests, corrupt practices and a complete lack of civic duty have seen federal and state governments persistently neglect the area of public security policy. AI stated, however, that in 2007, the federal government launched the National Public Security and Citizenship Programme (PRONASCI) to combat violence.¹⁸

12. Front Line indicated that a National Programme for the Protection of Human Rights Defenders was launched in 2004, as a result of a working group established by the Special Secretary for Human Rights. However there still remains confusion on the part of the Office of the Special Secretary for Human Rights (SEDH), on its role in the implementation of the programme. The Office of the SEDH insists that the programme is the responsibility of the states where it is to be implemented.¹⁹

13. COHRE reported that despite a range of governmental policies addressing social housing, land regularization, slum upgrading, sanitation, public transport and building, there are still a number of concerns raised by massive and violent forced evictions in both urban and rural communities.²⁰ The acceptance to draft a proposal for a “National Policy for Preventing and Mediating Urban Land Conflicts”, to be considered during the 3rd National City Conference in November 2007, was acknowledged by COHRE.²¹

14. AI reported on efforts to combat slave labour with the creation in 1995, of the roving inspection unit “Grupo Movel” under the Ministry of Labour. AI also reported that members of the inspection unit have been threatened and that some have suffered attacks and even killings. This, combined with political pressure, has put the work of the unit at risk and the Ministry of Labour has decided to temporarily suspend its activities.²²

15. Ipas stated that the development and implementation of health policies is the responsibility of the local, district and national governments.²³ Rede Femenista indicated however, that there is resistance in many states and municipalities to implement health actions provided in the national policies.²⁴ According to them the National Policy for Holistic Health Assistance to Women includes specific attention to health for lesbian women, but the practice in health services continues to be prejudiced.²⁵ The Centre for Reproductive Rights raised Brazil’s failure to include the reduction of maternal mortality among its seven health priorities in its Multi-Year Plan for 2004-07, failing to allocate sufficient funding to implement programmes aimed at reducing maternal mortality.²⁶ According to Rede Femenista, insufficient information (absence of registers, incorrect reporting on death certificates, omission of the fact that the cause of death is related to complications during pregnancy, childbirth or puerperium) makes monitoring of trends and causes of maternal mortality difficult.²⁷

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Implementation of international human rights obligations

1. Equality and non-discrimination

16. The Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM) noted that the 1988 Federal Constitution introduced the principle of equality of men and women before the law. However, the 2002 Civil Code reproduced certain perceptions based on discriminatory morality. CLADEM highlighted that there are gaps in

the legislation regarding current issues affecting women, such as genetic developments, technological advances and homosexual relations and while the judiciary is sensitive to the social emergence of new values, it reproduces social stereotypes with a predominantly patriarchal ideology and attribution of social roles.²⁸ Rede Femenista noted that discrimination against women in access to health services on the basis of their sexual orientation is an issue.²⁹ It also stressed that the existence of discrimination against women due to their age, rural origin or ethnic origin, noting that government statistics in 2004 indicated that only 20.5% were receiving pensions at that time.³⁰

17. The Instituto Antígona reported on steps taken to guarantee the rights of transsexuals and intersex persons, ensuring that gay men, lesbians, bisexuals and trans persons can live with the same dignity and respect to which all people have a right.³¹ The State is supportive of the Yogyakarta Principles³², however, the full recognition of the gender identity and freedom to decide on your own body does not exist. In order for a person to change his/her name and sex in the civil registry, a person has to undergo a transformation of his/her body.³³ The Brazilian Gay, Lesbian, Bisexual and Trans Association (ABGLT) expressed concern about the lack of official statistics and research on victims of homophobic crimes.³⁴ ABGLT urged the Government to approve legal mechanisms to address impunity for homophobic crimes and to protect the GLBT community, to incorporate the national “Without Homophobia Programme” into the agendas of the various Ministries and to generate enduring relevant state policies.³⁵

18. NEDF referred to efforts to fight racial inequality, including a draft Statute for Racial Equality proposed to the Legislative in 2003 and which has not yet been passed. Racist behaviour remained until 1988 a minor offense but the new Constitution explicitly held it as crime, and a 1989 law determined prosecution conditions and penalties. But, according to NEDF, like many of the initiatives aimed at eliminating racism, this too proved to be inefficient.³⁶

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

2. Right to life, liberty and security of the person

20. HRW reported major problems in the area of public security. According to them, the metropolitan areas, especially low-income neighborhoods (favelas), are plagued by widespread violence, perpetrated by criminal gangs, abusive police, and, in the case of Rio de Janeiro, militias reportedly linked to the police. Conectas noted that in 2006, there were 34,647 firearm-related deaths, even though the Disarmament Statute has contributed to reducing the number of people killed with firearms.³⁸ AI reported that for several decades, the State has responded by adopting a military-style policing, effectively criminalizing all residents within those areas. Though federal and state governments have recognized the perpetration of human rights violations by elements in the police, in many cases they continue to support this style of policing. This situation was most apparent in Rio de Janeiro where successive governments have promoted a discourse and a policy on combating crime in socially excluded communities. AI noted that the President of the Republic, in an apparent

gesture of political support to the governor of Rio de Janeiro, repeatedly defended the use of such tactics.³⁹ HRW noted that a preliminary investigation of coordinated attacks by criminal gangs against police officers, buses and public buildings in Rio, by an independent committee in December 2006, found evidence that many of the killings documented during this period were extrajudicial executions.⁴⁰ AI recommended that the Government ensure a multi-sectoral approach to the adoption and implementation of public security policies, to include human rights-based policing, thorough and impartial investigation of all crimes and further control of arms.⁴¹

21. HRW indicated that police violence is also common in the state of São Paulo.⁴² Conectas emphasized the extreme violence that occurred in May 2006 in that state when a criminal gang staged a series of attacks on police stations and organized rebellions at prisons across the state. The state authorities responded publicly, granting the police sweeping powers to repel the attacks, which resulted in 492 people killed over a period of eight days. In the vast majority of cases, however, people were killed by masked individuals, making it impossible to identify who fired the shots. Human rights organizations received, right from the outset, accusations and information that police officers were either filing fraudulent criminal incident reports in order to kill people or taking part in death squads.⁴³ ANCED indicated that Brazil is being devastated by an increment in urban violence, a new outbreak of ideas hardening the Criminal Law, “social hygiene”, institutionalization of life imprisonment or even death penalty.⁴⁴ According to ANCED, the consequence being (also) an increase in the imprisonment of young poor individuals, living in urban peripheries. According to data from the Special Secretariat of Human Rights, reported by ANCED, the number of adolescents deprived of liberty grew 325% between 1996 and 2006.⁴⁵ Conectas noted that there are no official integrated statistics on the number of people killed by civil and military police, or on how many can be attributed to illegal or abusive behaviour by the police, or data on the investigations and the accountability of police officers.⁴⁶

22. Front Line, HRW, the Sociedade Paraense de Direitos Humanos/Pará Society for the Defense of Human Rights (SDDH) and COHRE expressed concern about acts of repression against human rights defenders.⁴⁷ Front Line noted the characterization of human rights defenders as ‘enemies of the State’.⁴⁸ SDDH noted that the National Programme for the Protection of Human Right Defenders has a list of 80 human rights defenders in Pará threatened with execution, of which only 10% are under protection.⁴⁹

23. According to HRW, there have been credible reports of police and prison guards torturing people in custody as a form of punishment, intimidation and extortion. Police officers are rarely sanctioned, and abuses are sometimes justified by authorities as an inevitable by-product of efforts to combat very high crime rates.⁵⁰ Conectas indicated that the practice of torture is rarely and still very inefficiently investigated. Conectas also noted that the state of São Paulo has banned inspections of prisons and detention centers by NGOs.⁵¹ AI stated that the use of torture has been widely recognized and condemned by the federal and some state governments and recommends that the Government ensure investigations of all allegations of torture and reports of killings by police, make the findings public, and bring to justice those responsible.⁵² Entre autres, la International Federation of Action by Christians for the Abolition of Torture and Action by Christians for the Abolition of Torture/Brazil (FIACAT-ACAT Brazil) recommande une plus grande célérité des procédures judiciaires, une meilleure application des peines alternatives à la prison, la mise en œuvre de programmes de réinsertion sociale efficaces, des formations continues de base et sur les droits humains et constitutionnels pour les forces de l’ordre en général,

l'indépendance de l'Institut médico-légal par rapport au Secrétariat de sécurité publique, et l'organisation de visites régulières du Rapporteur Spécial de l'ONU sur la torture.⁵³

24. Rede Femenista indicated that domestic sexual violence, violence outside the home and sexual violence for commercial ends persist. They reported that only 37 hospitals offer assistance to victims of sexual violence and that five states do not have such services.⁵⁴ There are only 339 Special Police Departments to Assist Women (DEAMS) providing help to 10% of the 5,561 Brazilian municipalities. Lack of training of police agents and insufficient human and financial resources make it difficult for this mechanism to fulfill its role.⁵⁵ CLADEM reported on the ineffectiveness of the legislation and the inability to guarantee protection and reparation for victims.⁵⁶

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

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

27. HRW reported inhumane conditions, violence and overcrowding in prisons.⁶³ AI also stated that gang violence and riots continue to plight the prison system, where ill-treatment, including beatings and torture are commonplace.⁶⁴ AI noted that figures released by the prison system showed that inmate deaths as a result of homicide are six times the rate in the wider population.⁶⁵ FIACAT-ACAT/Brazil fait remarquer que le contrôle des révoltes internes ne s'est pas amélioré et indique que le Brésil a été sanctionné par la Commission Interaméricaine de Droits de l'Homme pour la situation de l'unité carcérale de Araraquara., FIACAT-ACAT/Brazil évoque aussi la situation des prisonniers placés dans des «cellules de sécurité» et des prisonniers placés dans les «cellules de châtement». L'absence totale de communication avec le monde extérieur des personnes incarcérées dans des prisons de Sécurité Maximum est aussi soulevée.⁶⁶

28. AI reported torture, ill-treatment and cruel, inhuman and degrading conditions in the state's detention system for women.⁶⁷ HRW also noted problems raised by the São Paulo state public defender's office at Sant'Ana female penitentiary, repeatedly urging the closing of the facility, where five inmates died between December 2006 and June 2007.⁶⁸ FIACAT-ACAT/Brazil indique que les femmes sont dans des prisons séparées des hommes, mais relève des cas de femmes détenues dans des prisons pour hommes, sous l'allégation de risque d'évasion.⁶⁹ Rede Femenista noted that the inclusion of specific provisions for the female prison population in the legislation is rare with the exception of the "Minimum Rules for the Treatment of Prisoners in Brazil". The rules refer *inter alia*, to the right of women to stay with their infants during the breastfeeding period; however, women must give up their right

to reduction of sentence in order to be able to be with their children, as this recourse is not available in the “semi-open” detention conditions in which women breastfeed.⁷⁰

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

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

31. According to HRW the use of forced labour continues to be a problem in rural Brazil, despite Government’s efforts to expose violations. Since the creation of mobile units to monitor labour conditions in rural areas, approximately 26,000 workers deemed to be working in conditions analogous to slavery were liberated. As of August 2007, no one had been punished for maintaining workers in slave-like conditions, according to the head of the public prosecutor’s division responsible for combating slave labour.⁷³ AI noted that a proposed strengthening of anti-slavery legislation to include confiscation of land where slavery has been practised, has so far met the resistance of a pro-landowner block in both houses of Congress.⁷⁴ AI noted that there are serious concerns over exploitative working conditions in land clearance, charcoal production and the growing sugar cane sector.⁷⁵

3. Administration of justice and the rule of law

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

33. AI referred to continuing impunity for perpetrators of human rights violations. Flaws in the criminal justice system, the involvement of law enforcement agents during the reporting, investigation and prosecution of human rights violations - especially in relation to extra-judicial executions and torture - have been identified. The lack of independent bodies to receive and investigate complaints, the lack of independent and properly resourced forensic investigation units, limited protection for victims or witnesses of human rights violations and limited access to justice, are underlined by AI.⁷⁸ Conectas also reported about the lack of compensation for victims.⁷⁹ Front Line noted the high level of impunity, the arbitrary use of judicial procedures against human rights defenders and social movements, and political pressure from state-level authorities on bodies responsible for monitoring the state.⁸⁰ Front Line called upon the UN to urge the authorities in Brazil, *inter alia*, to prioritize the protection of human rights defenders and to conduct independent inquiries.⁸¹

34. HRW indicated that Brazil has never prosecuted those responsible for atrocities committed in the period of military rule (1964 – 1985). In August 2007, the report of an 11-year investigation by the National Commission on Political Deaths and Disappearances was released. The Commission was unable to clarify important aspects of these crimes, including the whereabouts of the majority of persons “disappeared” by state security forces between 1961 and 1988, because the Brazilian armed forces have never opened key archives from the military years. In September 2007, the Superior Tribunal of Justice ordered the armed forces to open secret archives.⁸² AI also raised further that Brazil remains one of the few countries in the region not to have challenged the 1979 Amnesty law that pardoned both government agents and members of armed political groups who had committed abuses.⁸³

3. Right to privacy, marriage and family life

35. The issue of civil partnership between people of the same sex was raised by ABGLT. Since 1995, a Bill has been before the House of Representatives but it has met opposition by representatives invoking religious issues. ABGLT also indicated that the Attorney-General of the Republic is analyzing a request to file a suit in the Federal Supreme Court claiming failure to abide by fundamental constitutional precepts, so that unions between people of the same sex are recognized as families.⁸⁴

4. Freedom of opinion and expression

36. Article 19 referred to a lack of pluralism and diversity of the media, the failure of regulatory policies to support the development of independent broadcasters, in particular of non-commercial and community broadcasters, and concentration of media ownership. The federal government created in 2007 the Brazilian Public TV Broadcasting Network, which civil society groups hope to see as the starting point for the creation of a genuine public broadcasting system.⁸⁵ Article 19 also indicated that thousands of community broadcasters are waiting to be attributed a license, as part of a lengthy, ineffective and punitive process. Unlicensed radios are shut down by federal authorities, their equipment confiscated and many face criminal procedures.⁸⁶ According to Article 19 the extent of violence against journalists, such as killings, physical aggression and threats may be under-explored. In general, cases relate to the publication or broadcasting of the results of investigations on corruption or irregular behavior by public authorities.⁸⁷ RSF reported an increase in 2007, of frequently excessive legal orders restraining media reporting, mainly by local courts whose decisions were usually overturned on appeal but which still created a threatening atmosphere and encouraged self-censorship.⁸⁸ Article 19 also raised concerns about the high number of civil defamation cases under way.⁸⁹ Article 19 recommended *inter alia* to take immediate

action to set up a legal framework according to international standards, to address the issue of concentration of media ownership, to speed up the attribution of licenses to community broadcasters, to duly investigate cases of violence against media professionals, to improve accountability and to strengthen witness protection programmes for journalists and whistleblowers reporting on violence, corruption or other forms of abuse of power.⁹⁰

5. Participation in public and political life

37. CLADEM indicated that with the adoption of legislation establishing quotas, the percentage of women candidates increased from 7.18% in 1994 to 14.84% in 2002. While women represent 52.14% of public officials, they are mainly in positions of less functional hierarchy. Up to 2000, there was no woman in the Supreme Tribunals. In the legislative power, the policy of quotas demonstrated limited results. Women have seen their vulnerability accentuated this is in general, not just in public and political life, suffering from a double or triple discrimination, when the race, ethnic and socioeconomic factors are combined.⁹¹

6. Right to social security and to an adequate standard of living

38. ANCED indicated that poverty in Brazil is the first major cause of human rights violations, since mechanisms for social protection inadequate to ensure the rights of families in situations of economic vulnerability.⁹² Indicators available in Brazil highlight the feminization of poverty.⁹³ SDDH noted that the State of Pará has a high level of social and economic inequality and the Pará society is excluded from access to land, work, public security, education, health and others.⁹⁴ The Society for Threatened People reported that a new concept for the medical care for the Yanomami introduced in 2004 by the Health Foundation (FUNASA) and the Ministry of Health, resulted in severe deterioration in the Yanomami's population health, and increased reports of malaria. It is reported that before 2004 the Yanomami health care system was functioning well.⁹⁵

39. Rede Femenista, CLADEM and Ipas raised the issue of abortions in unsafe conditions, as well as discrimination against women who come to health centres with abortions that have been initiated.⁹⁶ Abortion has been criminalized except in cases of sexual violence or when a woman's life is endangered by pregnancy.⁹⁷ Rede Femenista stated that the Federal Council of Medicine supports the procedure (of abortion) in cases of non-viability of the fetus, especially anencephalic ones, and reports on efforts to include anencephaly among the exceptions in the law.⁹⁸ Rede Femenista reported that the implementation of regulations of the Ministry of Health on care for women and adolescents who are victims of violence and/or in situations of abortion, still face much resistance based on conservative cultural patterns, and require broader dissemination and effective application.⁹⁹ The Center for Reproductive Rights recommended that the State take immediate and effective measures to reduce maternal mortality rates, including, *inter alia*, by prioritizing maternal mortality as a serious health issue. It also recommended measures to eliminate disparities and inequalities in health care access, availability and quality for poor women and "women of color".¹⁰⁰

40. The Instituto Antígona reported about some cases of forced sterilization of women - mainly of poor and black women.¹⁰¹ Rede Femenista reported an increase in the number of women adults infected with the HIV virus, the 'ruralization' of the problem and HIV transmission from infected mother to baby during pregnancy, childbirth or breastfeeding.¹⁰² The Red Brasileña por la Integración de los Pueblos (REBRIP) raised the problem related to patents in the 'pipeline' that limits the purchase or production in Brazil of generic medicines.

It recommended the evaluation of related obstacles generated by the legal framework of the so-called intellectual property rights.¹⁰³

41. COHRE reported that forced evictions have been disproportionately affecting Afro-Brazilian communities, indigenous peoples, women and poor people, who are normally either not consulted prior to evictions or not given adequate notice. Legal remedies are often denied.¹⁰⁴ Judicial approval of forced evictions makes the crisis even more severe according to COHRE.¹⁰⁵ Evictions are often accompanied by excessive use of force, ill-treatment, torture, arbitrary detentions, harassment or extra-judicial executions by the military police.¹⁰⁶ AI also reports on related activities by private security companies or gunmen hired by landowners and multinational companies, who operate with impunity.¹⁰⁷ COHRE noted that in some areas, the threat of forced evictions is a direct result of the lack of official recognition of property rights of *Quilombo* communities.¹⁰⁸ COHRE recommended treating access to land as a human right and as a development concern when implementing public policies and programmes; to ensure that courts and other authorities act sufficiently to protect the rights of individuals and communities; to provide adequate, transparent and timely compensation if evictions must be carried out by the State in very exceptional circumstances; to regulate land development, parceling, acquisition, regularization, management and registration; to make greater efforts to implement the legislation, to issue property titles to quilombo communities and to resolve land ownership problems.¹⁰⁹ AI recommended that the Government *inter alia* introduce meaningful land reform; speed up the process of ratification of ancestral indigenous lands, and investigate human rights violations against land activists and indigenous Brazilians.¹¹⁰

7. Indigenous peoples and minorities

42. AI reported that the state of Mato Grosso do Sul remains particularly affected by violence against indigenous peoples, with threats and killings of those fighting for their rights to ancestral lands. Elsewhere, particularly in Mato Grosso, Roraima and Maranhão, indigenous lands are being overrun by illegal loggers, gold prospectors and ranchers, generating further violence. Due to the lack of state protection, some indigenous territories become lawless zones.¹¹¹ COHRE raised similar concerns.¹¹² The Society for Threatened People states that Kaiowa-Guarani Indians in Mato Grosso do Sul, are struggling to defend their land rights against the owners of large sugar cane estates for the biofuel industry. Their demarcation process has been delayed again and again. The Instituto de Estudos Direito e Cidadania (IEDC) also expressed concern about the situation of the Guarani-Kaiowá population.¹¹³ The Society for Threatened Peoples reported about the Transposição project in which affected communities were not involved and which severely threatens the way of life of indigenous communities and quilombolas.¹¹⁴ CIR-RF/US-FPP-IPLPP/UA recommended the Council to urge the Government of Brazil to cooperate with existing international fora and to implement their recommendations; to seek capacity and technical expertise and to respond to the findings and recommendations of CERD and the Inter-American Commission.¹¹⁵

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

43. AI reported that Brazil has on the whole embraced the concept of human rights and cooperated with international human rights bodies. It was one of the first countries to draw up a National Human Rights Plan in 1994. Brazil also extended an open invitation to UN Special Rapporteurs, introduced a National Human Rights Defenders Plan in 2004 and recently created an independent body for the prevention of torture. The Government

launched its PRONASCI public security plan, which they claim will target both social as well as security elements contributing to the extreme levels of criminal violence. While Brazil has made many important steps in recognizing the pervasive levels of human rights violations by state officials, and has put in place many protective legislative provisions, implementation remains an issue. Time and again, shortterm political objectives, corruption and social discrimination have undermined the provision and protection of human rights for all in Brazil especially for those belonging to the most marginalized communities.¹¹⁶

44. Conectas noted that the visit by the UN Special Rapporteur on the Independence of Judges and Lawyers preceded the Judiciary Reform instituted by Constitutional Amendment 45 in 2005 and the creation of the São Paulo Defender's Service in 2006. In spite of this progress, prospects for accessing justice are still drastic and the number of public defenders at the service of the poor in the country is negligible.¹¹⁷ COHRE noted progress in the protection of housing rights and notes positively the efforts to involve civil society in public decision-making with regard to national urban policy.¹¹⁸ ABGLT recognized the efforts in launching the national "Without Homophobia Programme" in 2004. However, there is still much to be done to make the Programme effective and produce real changes for this community.¹¹⁹ According to Rede Femenista the adoption of anti-discrimination laws related to gender, sexual orientation, race and ethnicity in the state and national levels opened the opportunity for complaints and reparations. Cities like Campinas (São Paulo) and Porto Alegre (Rio Grande do Sul), administratively punish commercial establishments, public servants (states and municipalities), and individuals who practice discrimination against gays, lesbians, bi-sexuals, transvestites and transsexuals.¹²⁰

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

45. CIR-RF/US-FPP-IPLPP/UA noted that unfortunately, the State often refers, domestically and internationally, to Raposa Serra do Sol as a great example of the achievements of the Government. This attitude represents the State's lack of political will to respond effectively to the human rights violations denounced by indigenous peoples.¹²¹ CIR-RF/US-FPP-IPLPP/UA indicated that the State has not fully cooperated with human rights mechanisms, in spite of recommendations recently issued by CERD and urgent precautionary measures issued by the Inter-American Commission on Human Rights, it has not taken effective measures to protect the life and physical integrity of the indigenous peoples in Raposa.¹²² HRW noted that the Inter-American Court of Human Rights has ordered Brazil to adopt measures to guarantee the safety of inmates in Urso Branco prison on four occasions since 2002, but Brazil has failed to do so.¹²³ Conectas pointed out that the recommendations made by the UN Special Rapporteur on summary executions have not been acted upon.¹²⁴

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

n/a

ENDNOTES

¹ The following stakeholders have made a submission (all original submissions are available in full text on: www.ohchr.org):

Civil Society:

- ABGLT: Associação Brasileira de Gays, Lésbicas, Bissexuais, Travestis e Transexuais/Brazilian Gay, Lesbian, Bisexual and Trans Association, UPR Submission, November 2007 (English and some attachments in Portuguese)
- AI: Amnesty International, UPR Submission, November 2007 (English) *
- ANCED: National Association of Centers for Defense of Child Rights, UPR Submission, November 2007 (English)
- Article 19 Brazil, UPR Submission, November 2007 (English) *
- Center for Reproductive Rights, UPR Submission, November 2007 (English)
- CIR-RF/US-FPP-IPLPP/UA: Conselho Indígena de Roraima, the Rainforest Foundation-US, the Forest Peoples Programme, and the Indigenous Peoples Law and Policy Program of the University of Arizona, UPR Submission, November 2007 (English)
- CLADEM: Latin American and Caribbean Committee for the Defense of Women's Rights, UPR Submission, November 2007 (Spanish) *
- COHRE: Centre on Housing Rights and Evictions, UPR Submission, November 2007 (English) *
- Conectas Human Rights, UPR Submission, November 2007 (English) *
- FIACAT-ACAT/Brazil: International Federation of Action by Christians for the Abolition of Torture and Action by Christians for the Abolition of Torture/Brazil, UPR Joint Submission, November 2007 (French) *
- Front Line , UPR Submission, November 2007 *
- Global Initiative: Global Initiative to End All Corporal Punishment of Children, UPR Submission, November 2007 (English)
- HRW: Human Rights Watch, UPR Submission, November 2007 (English) *
- IEDC: Instituto de Estudos Direito e Cidadania, UPR Submission, November 2007 (French)
- Instituto Antígona, UPR Submission, November 2007 (Spanish)
- IPAS Brazil, UPR Submission, November 2007 (English)
- Rede Femenista: Rede Femenista de Saúde, UPR Submission, November 2007 (English)
- RSF: Reporters Without Borders, UPR Submission, November 2007 (English/French/Spanish) *
- SDDH: Sociedade Paraense de Direitos Humanos/Pará Society for the Defense of Human Rights, UPR Submission, November 2007 (English)
- Society for Threatened Peoples', UPR Submission, November 2007 (English) *
- REBRIP: Red Brasileña por la Integración de los Pueblos, UPR Submission, November 2007 (Spanish)

Others

- NEDF: Fundamental Rights Study Nucleus, UPR Submission, November 2007 (English)

NB: * NGOs with ECOSOC status.

² AI, p. 1. See also submission from Conectas.

³ Conectas, p.1

⁴ HRW, p.4

⁵ Front Line, p.2

⁶ CIR-RF/US-FPP-IPLPP/UA, p.2-4

⁷ COHRE, p. 7 -8

⁸ Article 19, p. 1

⁹ Article 19, p.5

¹⁰ RSF, p. 2

¹¹ Ipas, p.2

¹² Rede Feminista, p.3

¹³ AI, p.1

¹⁴ AI, p.1

¹⁵ NEDF, p.3-4

¹⁶ ANCED, p.7-8

¹⁷ CIR-RF/US-FPP-IPLPP/UA, p.4

¹⁸ AI, p.3

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- ¹⁹ Front Line, p.2
²⁰ COHRE, p.8
²¹ COHRE, p.14
²² AI, p.1
²³ Ipas, p.2
²⁴ Rede Feminista, p.6
²⁵ Rede Feminista, p.6
²⁶ Center for Reproductive Rights, p. 2-3.
²⁷ Rede Feminista, p.4-5
²⁸ CLADEM, p.3
²⁹ Rede Feminista, p.7
³⁰ Rede Feminista, p.11
³¹ ABGLT, p.1-2
³² Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity
³³ Instituto Antígona, p. 4
³⁴ ABGLT, p.3-4
³⁵ ABGLT, p.3-4
³⁶ NEDF, p.5-6
³⁷ CLADEM, p.3
³⁸ Conectas, p.3
³⁹ AI, p.2-3
⁴⁰ HRW, p.1
⁴¹ AI, p.6
⁴² HRW, p.2. See also AI, p.2-3
⁴³ Conectas, p.3
⁴⁴ ANCED, p. 6-7
⁴⁵ ANCED, p. 6-7
⁴⁶ Conectas, p.3
⁴⁷ See submission from Front Line, HRW, SDDH and COHRE.
⁴⁸ Front Line, p.1
⁴⁹ SDDH, p.2
⁵⁰ HRW, p.2
⁵¹ Conectas, p.2-3
⁵² AI, p.4-5
⁵³ FIACAT, p.1-2
⁵⁴ Rede Feminista, p.7,9
⁵⁵ Rede Feminista, p.9
⁵⁶ CLADEM, p.1
⁵⁷ Global Initiative, p.1
⁵⁸ Global Initiative, p.2
⁵⁹ Global Initiative, p.1
⁶⁰ HRW, p.3
⁶¹ ANCED, p. 6-7
⁶² FIACAT-ACAT/Brazil, p.4
⁶³ HRW, p.2-3
⁶⁴ AI, p.3-4. See also FIACAT-ACAT/Brazil submission.
⁶⁵ AI, p.4
⁶⁶ FIACAT-ACAT/Brazil, p.3
⁶⁷ AI, p.4
⁶⁸ HRW, p.3
⁶⁹ FIACAT-ACAT/Brazil, p.4
⁷⁰ Rede Feminista, p. 11
⁷¹ CLADEM, p.2
⁷² Rede Feminista, p.8
⁷³ HRW, p.2-4. See also AI, p.4
⁷⁴ AI, p.1
⁷⁵ AI, p.4
⁷⁶ FIACAT-ACAT/Brazil, p.3
⁷⁷ ANCED, p. 6-7

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- ⁷⁸ AI, p. 1- 2
⁷⁹ Conectas, p.5
⁸⁰ Front Line, p.1- 4
⁸¹ Front Line, p.4-5
⁸² HRW, p.4
⁸³ AI, p. 2. See also Human Rights Watch submission.
⁸⁴ ABGLT, p.4-5
⁸⁵ Article 19, p.2
⁸⁶ Article 19, p.3
⁸⁷ Article 19, p.4
⁸⁸ RSF, p.1
⁸⁹ Article 19, p. 3-4
⁹⁰ Article 19, p.3-5
⁹¹ CLADEM, p.3-4
⁹² ANCED, p.2
⁹³ COHRE, p.15
⁹⁴ SDDH, p.1
⁹⁵ Society for Threatened People, p. 1
⁹⁶ Rede Feminista, p.1-2, CLADEM, p.2-3, Ipas, p.2
⁹⁷ Ipas, p.1
⁹⁸ Rede Feminista, p.1-2
⁹⁹ Rede Feminista, p.1-2
¹⁰⁰ Center for Reproductive Rights, p.5
¹⁰¹ Instituto Antígona, p. 5-7
¹⁰² Rede Feminista, p.6-7 Para 19, 21
¹⁰³ REBRIP, p.5
¹⁰⁴ COHRE, p.18
¹⁰⁵ COHRE, p.12
¹⁰⁶ COHRE, p.18
¹⁰⁷ AI, p.4
¹⁰⁸ COHRE, p. 16
¹⁰⁹ COHRE, p 17
¹¹⁰ AI, p.6
¹¹¹ AI, p. 4-5
¹¹² COHRE, p.18
¹¹³ IEDC, p.1-5
¹¹⁴ Society for Threatened People, p. 2-3
¹¹⁵ CIR-RF/US-FPP-IPLPP/UA, p.2-3, 6
¹¹⁶ AI, p. 5
¹¹⁷ Conectas, p.5
¹¹⁸ COHRE, p.10
¹¹⁹ ABGLT, p.2-3
¹²⁰ Rede Feminista, p.10
¹²¹ CIR-RF/US-FPP-IPLPP/UA, p.7
¹²² CIR-RF/US-FPP-IPLPP/UA, p.5
¹²³ HRW, p.3
¹²⁴ Conectas, p.4