



# General Assembly

Distr.: General  
22 March 2012

Original: English

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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirteenth session**  
21 May - 4 June 2012

**Compilation prepared by the Office of the High  
Commissioner for Human Rights in accordance with  
paragraph 5 of the annex to Human Rights Council  
resolution 16/21**

**Brazil\***

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and the Office of the High Commissioner for Human Rights (OHCHR) and from other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments.

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\* Late submission.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

#### Universal human rights treaties<sup>2</sup>

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1968) ICESCR (1992) ICCPR (1992) CEDAW (1984) CAT (1989) OP-CAT (2007) CRC (1990) OP-CRC-AC (2004) OP-CRC-SC (2004)	CRPD (Aug. 2008) ICCPR-OP 2 (2009) CED (2010)	ICRMW
<i>Reservations, declarations and/or understandings</i>	CEDAW, art. 29, para. 1 CRC-OP-AC, art. 3, para. 2	ICCPR-OP 2,- art.2	--
<i>Complaint procedures<sup>3</sup></i>	ICERD, art. 14 (2002) CAT, art. 22 (2006) OP-CEDAW (2002)	ICCPR-OP 1 (2009) OP-CRPD (Aug. 2008)	OP-ICESCR CED, art. 31 ICRMW, art. 77

#### Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide, Rome Statute of the International Criminal Court Refugees and stateless persons <sup>4</sup> Geneva Conventions of 12 August 1949 and Additional Protocols I and II thereto <sup>5</sup> Palermo Protocol <sup>6</sup> ILO Fundamental Conventions <sup>7</sup> ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries UNESCO Convention against Discrimination in Education	Additional Protocol III to the 1949 Geneva Conventions <sup>8</sup>	ILO Convention No. 189 concerning Decent Work for Domestic Workers ILO Convention N° 87 concerning Freedom of Association and Protection of the Right to Organise

1. In 2009, the Committee on Economic, Social and Cultural Rights (CESCR) invited Brazil to consider ratifying the Optional Protocol to ICESCR and the ICRMW<sup>9</sup> In 2012, the Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Brazil to consider ratifying ICRMW<sup>10</sup> and the International Labour Convention No. 189 concerning Decent Work for Domestic Workers.<sup>11</sup>

## **B. Constitutional and legislative framework**

2. In 2010, the Special Rapporteur on contemporary forms of slavery recommended that the Government adopt a clearer definition of the crime of slave labour, which would better assist the Federal Police to investigate and file criminal cases. She further advised that the minimum criminal penalty for slave labour should be increased to five years.<sup>12</sup> She added that the Government should legislate special protection and integration mechanisms for victims of slave labour, and strengthen the system of individual compensation.<sup>13</sup>

3. In 2009, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people recommended that, in consultation with indigenous peoples, new legislation be adopted and existing laws reformed in order to implement ILO Convention 169, and in light of the United Nations Declaration on the Rights of Indigenous Peoples.<sup>14</sup>

4. The Office of the United Nations High Commissioner for Refugees (UNHCR) noted that the national migration law was outdated, which resulted in migrants using the asylum process in an attempt to legalize their stay in Brazil. UNHCR observed that a new bill on immigration contained important advances, i.e. granting of visas under humanitarian grounds.<sup>15</sup> It also referred to a draft bill on statelessness which would enable the establishment of a statelessness status determination procedure and guarantee the issuance of a Brazilian ID for recognized stateless persons.<sup>16</sup>

## **C. Institutional and human rights infrastructure and policy measures**

5. In 2009, the Special Rapporteur on the right to food recommended that Brazil strengthen the protection of the right to food by establishing an independent national institution for the promotion and protection of human rights, in accordance with the Paris Principles, as it had committed itself to do under the UPR.<sup>17</sup>

6. The Special Rapporteur on contemporary forms of slavery recommended that the National Commission for the Eradication of Slave Labour provide for stronger coordination between the different key actors in the fight against slave labour. He also recommended that civil society organizations be included in the discussion, coordination and implementation of specific programmes within State plans.<sup>18</sup>

## II. Cooperation with human rights mechanisms

### A. Cooperation with treaty bodies<sup>19</sup>

#### 1. Status of reporting

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	March 2004	--	--	Eighteenth to twentieth reports overdue since 2008
CESCR	May 2003	Aug. 2007	June 2009	Third report due in 2014
HR Committee	Nov. 2005	--	--	Third report overdue since 2009
CEDAW	July 2007	Aug. 2010		Eight report due in 2016
CAT	May 2001	--	--	Second to sixth reports overdue since 1994, 1998, 2002, 2006 and 2010 respectively
CRC	Oct. 2004	--	--	Second to fourth reports overdue since 2007, Initial CRC-OP-SC and CRC-OP-AC reports overdue since 2006
CRPD	--	--	--	Initial report overdue since 2010
CED	--	--	--	Initial report due in 2012

#### 2. Responses to specific follow-up requests by treaty bodies

##### *Concluding observations*

<i>Treaty body</i>	<i>Due in</i>	<i>Subject-matter</i>	<i>Submitted in</i>
CEDAW	March 2014	Trafficking in persons <sup>20</sup> Women's access to health, legislation criminalizing abortion; prevention of sexually transmitted diseases and HIV/AIDS <sup>21</sup>	--

##### **Views**

<i>Treaty body</i>	<i>Number of views</i>	<i>Status</i>
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7. CESCR invited Brazil to submit a core document.<sup>22</sup> The Subcommittee on Prevention of Torture (SPT) visited Brazil in September 2011. The report of the visit is confidential.<sup>23</sup>

## B. Cooperation with special procedures<sup>24</sup>

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>		
<i>Visits agreed to in principle</i>	--	
<i>Visits requested</i>	--	
<i>Responses to letters of allegation and urgent appeals</i>	35 communications were sent. The Government replied to 8 of these communications.	

## C. Cooperation with the Office of the High Commissioner for Human Rights

8. During a visit in November 2009, the High Commissioner for Human Rights noted that Brazil still faced enormous human rights challenges. She signed a Memorandum of Intent with the Government designed to strengthen South-South cooperation on human rights, increase compliance with the United Nations human rights system, and maximize the promotion and protection of human rights.<sup>25</sup>

9. Brazil made contributions to OHCHR in 2008, 2010 and 2011, and to the three humanitarian funds in 2008.<sup>26</sup>

## III. Implementation of international human rights obligations

### A. Equality and non-discrimination

10. CESCR was concerned at the persistence of negative gender roles, which could render women more vulnerable to domestic and other forms of violence.<sup>27</sup>

11. The ILO Committee of Experts on the Application of Conventions and Recommendations noted, in 2010, that women were overrepresented in domestic work, production for family consumption and unpaid work. The Committee requested the Government to continue efforts to ensure full equality of opportunity and treatment for women, persons of African descent and indigenous persons.<sup>28</sup>

12. CEDAW was concerned at the disadvantaged position of women in rural and remote areas, the most affected by poverty and extreme poverty.<sup>29</sup> It recommended that Brazil implement local developments plans.<sup>30</sup>

13. CESCR noted that there remained a significant discrepancy between the life expectancy and poverty levels of the black and white populations, while noting that the overall poverty indicators had improved. It recommended that Brazil take appropriate measures to address this discrepancy through a sharper focus on health and poverty eradication programmes.<sup>31</sup>

14. CESCR welcomed the Brazil Free of Homophobia Programme.<sup>32</sup>

## **B. Right to life, liberty and security of the person**

15. The High Commissioner for Human Rights recalled the urgent need for effective measures to combat extrajudicial executions, torture and cruel, inhuman or degrading treatment. She added that the high rate of homicides in Brazil's overcrowded prisons, and allegations of widespread torture and inhumane conditions were alarming and unacceptable and the fact that the vast majority of those incarcerated were Afro-Brazilians was equally disturbing.<sup>33</sup>

16. In 2010 the Special Rapporteur on extrajudicial, summary or arbitrary executions noted that Brazil had taken important steps to address unlawful killings since his 2007 visit.<sup>34</sup> However, extrajudicial executions remained pervasive. Almost no steps had been taken to address the grave problem of on-duty police killings, or to reduce the high numbers of so-called "resistance" killings. Most of the killings were still never investigated. He also noted that little action had been taken to reduce prison violence.<sup>35</sup>

17. The Special Rapporteur recommended that the Government work towards abolishing the separate system of military police;<sup>36</sup> that the federal Government implement more effective measures to tie state funding to compliance with measures aimed at reducing the incidence of extrajudicial executions by police;<sup>37</sup> that police under investigation for crimes constituting extrajudicial executions be removed from active duty;<sup>38</sup> that police ombudsman offices, as they existed in most states, be reformed so as to be better able to provide external oversight;<sup>39</sup> and that State Institutes of Forensic Medicine be made fully independent.<sup>40</sup>

18. In 2009, the Special Rapporteur reported on deaths in prisons and the lack of necessary oversight and protection of persons in custody. Impunity for most killings was rampant because of deficiencies throughout the criminal justice system, including with respect to police investigations, forensic analysis, prosecutors' powers, the judiciary, witness protection, and ombudsman offices. He proposed a range of recommendations to address these issues.<sup>41</sup>

19. CEDAW was concerned at the precarious conditions and overcrowding of some detention facilities and the difficulties faced by women prisoners' to access to justice.<sup>42</sup> It urged Brazil to reduce the number of women in conflict with the law; develop comprehensive gender-sensitive policies and programmes aimed at facilitating women's access to justice, ensuring fair trial guarantees, and improve the conditions of women's detention facilities according to international standards.<sup>43</sup>

20. The High Commissioner for Human Rights expressed concerns about the high levels of violence directed at women, hoping more could be done to help women across the country make use of the laws and projects designed to protect them.<sup>44</sup>

21. CESCR was concerned at the prevalence of sexual abuse of and violence against children, particularly girls, and recommended that instances of abuse and neglect of children be properly investigated.<sup>45</sup>

22. The Special Rapporteur on contemporary forms of slavery recommended that slave labour offences clearly fall under federal jurisdiction.<sup>46</sup>

23. The ILO Committee of Experts noted that despite a series of measures adopted by the Government to combat slave labour, many workers continued to be victims of inhumane and degrading conditions of work, debt bondage or internal trafficking for the exploitation of their labour.<sup>47</sup> For many years, the Committee has been concerned with the very low number of convictions by the criminal courts under section 149 of the Penal Code for the reduction of a person to a condition akin to slavery.<sup>48</sup>

24. CEDAW regretted that Brazil had not yet adopted a comprehensive anti-trafficking legislation. It was concerned at information that women and girls were exploited for the

purposes of prostitution or employment in some regions where development projects were being implemented and in touristic zones in the northeast.<sup>49</sup> It recommended that Brazil consider adopting a comprehensive law against trafficking in persons, in line with the Palermo Protocol.<sup>50</sup>

25. The Special Rapporteur on contemporary forms of slavery recommended that the Government fully comply with the Trafficking Protocol, for example by criminalizing all forms of trafficking (including for economic exploitation) and all those involved in trafficking human beings.<sup>51</sup>

26. CESCR was concerned that child labour continued to be widespread, despite measures taken and the reduction in the cases of child labour for the 5-9 years age group.<sup>52</sup>

27. The ILO Committee of Experts welcomed the measures taken by the Government to abolish child labour, which it considered to be an affirmation of its political will to combat this problem. Nevertheless, it observed with concern the situation of children who were forced to work out of necessity, and strongly encouraged the Government to redouble its efforts to improve the situation.<sup>53</sup>

28. CESCR was concerned that many children continued to live on the streets where they remained vulnerable to abuse, including sexual abuse and other forms of exploitation, despite efforts in this regard.<sup>54</sup>

29. UNICEF noted that complementary analyses based on risk indicators associated with age group, sex, race, and environment showed that lethal violence against adolescents was a phenomenon that marked life in large cities.<sup>55</sup>

### **C. Administration of justice, including impunity and the rule of law**

30. The Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the independence of judges and lawyers transmitted a communication to the Government in August 2011 regarding information on the killing of a judge of the State of Rio de Janeiro known for her efforts to confront criminal gangs and death squads and for convicting members of vigilante gangs and corrupt police officers. The Special Rapporteurs received reports mentioning that many judges were under threat because of their functions. The Special Rapporteurs referred to reports by the National Council for Justice of 69 threatened judges, and to studies from the Justice Ministry on a “most wanted” death list including more than 90 judges. They underlined that if impunity for such crimes prevailed, the work of judges would be at serious risk, thereby impinging on the effective independence of the judiciary and the consolidation of the rule of law and democracy.<sup>56</sup>

31. CEDAW noted the role of the Supreme Court in guaranteeing the rights of men and women in the implementation of the Maria da Penha Law on domestic and family violence against women (Law 11340), and its decision on equal rights and obligations for same-sex couples.<sup>57</sup> However, it was concerned about the lack of expertise within the judiciary to deal with domestic violence,<sup>58</sup> and urged Brazil to provide systematic training to judges, prosecutors and lawyers on women’s rights and violence against women as well as on the Maria da Penha Law.<sup>59</sup>

32. In 2010, the ILO Committee of Experts was concerned about allegations concerning the murder of 11 trade unionists between 1993 and 2009 and the attempted murders of trade unionists.<sup>60</sup>

33. In 2011, the High Commissioner for Human Rights welcomed the establishment of a National Truth Commission as an important step towards unravelling truth about past human rights violations.<sup>61</sup>

#### **D. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

34. During her 2010 mission, the Independent Expert in the field of cultural rights was informed that religious teaching was offered in public schools in at least 11 States, with irregularities detrimental to freedom of religion and belief, to the recognition of Afro-Brazilian religions, and to the laic character of the State.<sup>62</sup> She highlighted the need to undertake participatory processes involving communities and persons of African descent with a view to adopting effective measures to address religious intolerance in the education system.<sup>63</sup>

35. UNESCO noted that the safety of journalists in Brazil continued to be poor. Between 2008-2011, UNESCO's Director General had condemned five killings of media professionals, most of them related to organized crime and local politics (reprisals for investigative journalism against local corruption practices).<sup>64</sup>

36. UNESCO acknowledged the decision by the Supreme Federal Tribunal in 2009 to strike down the Press Law of 1967 that allowed for harsh penalties for libel and slander. However, it noted that the main regulatory framework regarding freedom of expression and press freedom was outmoded, dating back to 1962. Lack of media pluralism, the absence of an independent regulator and weak public service broadcasting were highlighted as three outstanding challenges. It also noted that the Federal Government was discussing a new regulatory framework.<sup>65</sup>

37. UNESCO underlined that Brazil still did not have a law on freedom of information. A bill sent to Congress in 2009 remained under Senate analysis for the moment.<sup>66</sup>

38. The High Commissioner for Human Rights expressed concerns at the delegitimization of the work of human rights defenders in some parts of Brazil, particularly in the south and in certain urban areas. She encouraged the Government to remain dedicated to providing effective protection and security to human rights defenders.<sup>67</sup>

39. The Special Rapporteur on the right to food noted that politically tense situations — particularly those involving land disputes and the implementation of large infrastructure projects — could still result in violent repression by State security forces. He urged Brazil, at federal, state and municipal levels, to take all measures necessary to ensure that legitimate forms of protest and social activism enjoy the protections provided by international human rights standards.<sup>68</sup>

40. A 2011 United Nations Statistics Division source indicated that the proportion of seats held by women in the national parliament decreased from 8.8 per cent in 2010 to 8.6 per cent in 2011.<sup>69</sup>

41. CEDAW recommended that Brazil strengthen its efforts to adopt legislation aimed at increasing the de facto participation of women in political life and pursue sustained policies to promote women's full and equal participation in decision-making.<sup>70</sup>

#### **E. Right to work and to just and favourable conditions of work**

42. CEDAW was concerned that the wage gap between men and women fluctuated between 17 per cent and 40 per cent depending on the race, ethnicity, and education.<sup>71</sup> It was also concerned that stereotypes related to gender and race contributed to the segregation of Afro-descendent and indigenous women into lower quality jobs.<sup>72</sup> It recommended that Brazil adopt measures in the formal labour market, including temporary special measures, to eliminate occupational segregation based on stereotypes related to gender, race and ethnicity.<sup>73</sup>

43. CESCR noted persisting inequalities in access to employment and in working conditions, based on gender and race.<sup>74</sup>

44. The ILO Committee of Experts noted, in 2010, that no action had been taken to combat discrimination in employment on the basis of political opinion.<sup>75</sup>

45. CESCR was concerned at reports that membership in trade unions frequently resulted in the blacklisting of members and leaders and recommended that Brazil take effective measures to ensure that employees participating in trade unions are able to freely exercise their rights.<sup>76</sup>

46. CEDAW noted with concern that article 7 of the Constitution granted domestic workers only 9 out of 34 rights granted to other categories of workers.<sup>77</sup> It recommended that Brazil grant the full range of rights to women domestic workers and take measures to eliminate discrimination against Afro-descendent women domestic workers.<sup>78</sup>

## **F. Right to social security and to an adequate standard of living**

47. CESCR remained concerned about the persistent inequalities in economic conditions and social injustice prevailing in Brazil between different regions, communities and individuals, despite positive measures taken by the Government.<sup>79</sup>

48. CESCR was concerned that, despite its significant contribution to poverty reduction, the Family Grant Programme (*Bolsa Familia*) was subject to limitations and recommended that Brazil extend it to cover the large number of families that do not receive the benefit. It also recommended that the Government ensure equal access to the Programme for the poorest families, particularly indigenous families.<sup>80</sup>

49. While noting that Brazil would invest heavily in infrastructure for the forthcoming World Cup and Olympics, the High Commissioner for Human Rights suggested this could be done with a view to bringing lasting benefits to the poorest and most marginalized urban inhabitants.<sup>81</sup> In 2011, the Special Rapporteur on the right to adequate housing expressed concern about what appeared to be a pattern of lack of transparency, consultation, dialogue, fair negotiation and participation of affected communities in evictions undertaken or planned in connection with the World Cup and Olympics.<sup>82</sup>

50. CESCR was concerned at the high proportion of the population excluded from any form of social security, and at the fact that the majority of domestic workers were not eligible for any social security benefits and the provision for persons who had not been able to contribute to the social security system was inadequate.<sup>83</sup>

51. CESCR welcomed the National School Food Programme established to provide meals free of charge for 37 million children in public schools.<sup>84</sup> UNICEF noted that the rates of stunting and underweight had fallen dramatically since 1990, partly thanks to the *Fome Zero* (zero hunger) programme.<sup>85</sup>

52. While commending Brazil for its remarkable progress in reducing malnutrition and poverty by creating and scaling up “Zero Hunger” programmes, the Special Rapporteur on the right to food noted that major challenges remained.<sup>86</sup>

53. The Special Rapporteur on the right to food also stressed that the Government should pursue and scale up the strategy to ensure a more equitable redistribution of land, in accordance with the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security.<sup>87</sup>

54. CESCR noted that more than six million people in Brazil lived in precarious urban settlements, that there was a large number of homeless people and that significant migration inflows into urban areas had exacerbated the housing shortage.<sup>88</sup>

## G. Right to health

55. CESCR was concerned that maternal mortality rates remained extremely high and that the risk of maternal death disproportionately affected marginalized communities, particularly Afro-Brazilians, indigenous women and women from rural areas. It was particularly concerned that the majority of maternal deaths were preventable with adequate medical care.<sup>89</sup>

56. A 2011 United Nations Statistics Division source indicated that the children under-five mortality rate per 1,000 live births decreased from 21 in 2009 to 19 in 2010, while the infant mortality rate (0-1 year) per 1,000 live births decreased from 18 in 2009 to 17 in 2010.<sup>90</sup>

57. UNICEF noted that a National Health and Nutrition Survey 2008/2009 showed that one in five indigenous children under 5 had lower height than expected for their age. More than half suffered from anaemia. In the Northern region, the situation was even worse: 41.1 per cent were below the expected height and 66 per cent had anaemia. Almost 38 per cent of indigenous children had diarrhoea in the week preceding the survey. Among indigenous women, health problems were identified that were not detected in the non-indigenous urban population: overweight (30.2 per cent), obesity (15.7 per cent) and blood pressure (8.9 per cent), as well as nutrition issues such as anaemia (32.7 per cent women and 35.2 per cent for pregnant women).<sup>91</sup>

58. CESCR welcomed the compulsory licensing of HIV/AIDS antiretroviral drugs in order to make them affordable and enable the extension of treatment to all patients.<sup>92</sup> It was concerned at the growing number of HIV/AIDS cases registered during the last decade.<sup>93</sup>

59. CEDAW was concerned at the feminization of the HIV/AIDS infection in Brazil.<sup>94</sup> It recommended that Brazil assess the implementation of the *Rede Cegonha* programme<sup>95</sup> and expedite the review of legislation criminalizing abortion in order to remove punitive provisions imposed on women.<sup>96</sup> CESCR noted that clandestine abortions remained a major cause of death among women.<sup>97</sup>

60. CESCR noted with concern that it was still permissible to promote the use of tobacco through advertising and recommended that Brazil take measures to ban the promotion of tobacco products and enact legislation to ensure that all enclosed public environments were completely tobacco-free.<sup>98</sup>

61. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people recommended that the Ministry of Health, in consultation with the National Indian Foundation FUNAI and indigenous peoples, continue efforts to improve the delivery of health services to indigenous peoples, especially in remote areas, with attention to the special needs of indigenous women and children.<sup>99</sup>

## H. Right to education

62. CESCR was concerned that 43 per cent of children between 7 and 14 did not complete the eighth grade of basic education at the proper age. It recommended that Brazil conduct a study to establish the factors which contributed to children failing to complete primary school and implement strategies to address the problem.<sup>100</sup>

63. CESCR noted that illiteracy rates remained a problem in Brazil and that inequalities persisted in literacy levels between the white and black populations. The average illiteracy rate was significantly higher in rural areas in the north.<sup>101</sup>

64. UNICEF referred to a study conducted in 2009 on the situation of Brazilian children and adolescents that showed that, despite major progress, inequalities still prevailed in the country's development model. In the educational field, these inequalities were largely determined upon where the children and adolescents lived: regional and urban-rural inequalities; colour-related inequalities: black and indigenous children were more affected by educational inequalities; disability-related inequalities: it was more difficult for disabled children and adolescents to have access to school and to stay in it. The most revealing indicators were those measuring access to early childhood education and secondary education.<sup>102</sup>

## **I. Cultural rights**

65. UNESCO noted that Brazil had adopted specific laws on the cultures of indigenous peoples and people of African descent. These included Law 11.645 of 2008, which sought to promote public awareness of indigenous cultures and rights in the media and in the education system.<sup>103</sup>

66. CESCR noted with concern that the enjoyment of the right to cultural life was largely limited to the educated and/or affluent segments of society and that cultural resources and assets were concentrated in large cities, with relatively little provision for smaller regions and towns.<sup>104</sup>

67. The Independent Expert on cultural rights encouraged Brazil to strengthen efforts to combat ongoing discrimination and intolerance and take a stronger stand and redouble measures to protect persons and sites associated with religions of African origin, by addressing the persistence of racism in Brazilian society and the negative image of African religions sometimes diffused by followers of other religions and/or the media.<sup>105</sup>

## **J. Persons with disabilities**

68. CESCR was concerned that persons with disabilities still suffered discrimination in access to employment despite the quotas in both the public and private sectors.<sup>106</sup>

## **K. Minorities and indigenous peoples**

69. The High Commissioner for Human Rights stated that most persons of indigenous origin were not benefitting from the country's economic progress, and were being held back by discrimination and indifference, chased out of their lands and into forced labour. She noted that the Afro-Brazilian population was facing problems in terms of implementation of socio-economic programmes and discrimination.<sup>107</sup>

70. The ILO Committee of Experts considered that the recognition and effective protection of the rights of the Quilombola communities of Alcántara to the lands that they traditionally occupied, in accordance with article 14 of Convention N° 169, was of vital importance for safeguarding the integrity of these peoples and, consequently, for respecting the other rights established in the Convention.<sup>108</sup>

71. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people recommended that every effort should be made to enhance the control of indigenous peoples over their communities, territories and natural resources. He advised that relevant Government agencies should, to the extent possible, facilitate greater decision-making power by indigenous peoples over the delivery of services in their communities, and assist them to develop the capacity to effectively exercise that power.<sup>109</sup>

72. The Special Rapporteur added that in exercising whatever powers they had with regard to indigenous lands, all public institutions and authorities, at the federal and state levels, should be aware of and conform their conduct to the relevant provisions of ILO Convention No. 169 and other applicable international instruments which provided protection of indigenous peoples' rights to lands and natural resources. He added that these protections should be strengthened by domestic legislation.<sup>110</sup>

73. The ILO Committee of Experts emphasized that governments had the obligation to consult the peoples covered by ILO Convention N° 169 whenever consideration was being given to measures which may affect them directly, with the objective of achieving agreement or consent to the proposed measures.<sup>111</sup> The Committee reminded that consultation and participation must constitute a genuine dialogue, by means of appropriate mechanisms.<sup>112</sup>

74. CESCR was concerned at the slow progress in the land reform process notwithstanding the constitutional rights to property and self-determination, as well as the enactment of legislation to facilitate the demarcation of land belonging to the indigenous peoples. It recalled its recommendation that Brazil expeditiously complete the process of demarcation and allocation of indigenous land in accordance with the Constitution and existing laws.<sup>113</sup>

## **L. Migrants, refugees and asylum-seekers**

75. UNHCR was concerned that, in 2010, a new law gave permission to the military armed forces at the borders to search persons, vehicles, vessels and aircraft, as well as make arrests. It was concerned that many refugees could thus be intercepted as illegal migrants, especially in the Amazon Region. UNHCR recommended that the Government effectively deal with mixed migration flows, ensuring access of persons in need of international protection to fair and adequate RSD procedures by establishing protection-sensitive entry mechanisms and ensuring adequate training of the Federal Police and the Armed Forces.<sup>114</sup>

76. UNHCR noted the lack of human resources of the National Committee for Refugees to allow for adequate processing of the growing number of asylum applications. It recommended that the Government ensure that all asylum-seekers are given the opportunity of a personal interview, and enhance the quality of the refugee status determination procedures. In the event of a denial of recognition of refugee status, the asylum-seeker should be informed about the reasoning for the rejection to allow an appeal.<sup>115</sup>

77. UNHCR noted that more efforts were needed to facilitate the local integration of refugees, including those being resettled to Brazil from first countries of asylum, and to ensure that their specific protection needs were effectively addressed.<sup>116</sup>

78. UNHCR recommended the establishment of more public shelters to accommodate persons in need of international protection arriving to Brazil, as reception of refugees remained problematic. Shelter and housing for asylum-seekers and refugees was described as a great challenge.<sup>117</sup>

79. UNHCR emphasised that refugees faced some level of discrimination due to the misinterpretation of the meaning of the word refugee, which appeared on their official ID. It recommended that Brazil ensure the expeditious issuance of national identity cards to recognized refugees by the Federal Police to facilitate their integration.<sup>118</sup>

80. UNHCR noted that refugees continued to face obstacles in having their foreign educational and professional diplomas recognized in Brazil and recommended, that the autonomous public universities and professional associations, in coordination with the Ministry of Education, facilitate their recognition.<sup>119</sup>

## M. Right to development and environmental issues

81. CESCR recommended that Brazil take the necessary measures to combat continued deforestation in order to ensure the effective enjoyment of economic, social and cultural rights, especially by indigenous and vulnerable groups.<sup>120</sup>

82. The Special Rapporteur on the right to food recommended that pursuit of access to foreign markets and the greater degree of openness of the domestic market to trade be accompanied by serious consideration of the effects — economic, social and environmental — on different groups and on the sustainability of the process seen in its entirety.<sup>121</sup>

### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations Compilation from the previous cycle(s), UN document A/HRC/WG.6/1/BRA/2.

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> In the previous compilation a table contained information on the recognition of specific competences of treaty bodies, namely, Individual complaints: ICERD, art. 14, CAT, art. 22, ICRMW, art. 77, and CED, art. 31; Inquiry procedure: OP-CEDAW, arts. 8 and 9; CAT, art. 20; OP-CRPD, arts. 6 and 7; Inter-State complaints: ICCPR, art. 41, ICRMW, art. 76, and CED, art. 32.

<sup>4</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>5</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol

- Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>6</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- <sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- <sup>8</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).
- <sup>9</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/BRA/CO/2), para.36. See also A/HRC/15/20/Add.4, paragraph 117 and A/HRC/17/38/Add.1, paragraph 92 (a).
- <sup>10</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/BRA/CO/7), para.39.
- <sup>11</sup> *Ibid.*, para.27.
- <sup>12</sup> A/HRC/15/20/Add.4, paras. 102-103.
- <sup>13</sup> *Ibid.*, paras. 105 – 107.
- <sup>14</sup> A/HRC/12/34/Add.2, para. 93
- <sup>15</sup> UNHCR submission to the UPR on Brazil, 2010, p.3.
- <sup>16</sup> *Ibid.*, p.2.
- <sup>17</sup> A/HRC/13/33/Add.65, para 51 (d). See also E/C.12/BRA/CO/2, paragraph 7.
- <sup>18</sup> A/HRC/15/20/ Add. 4, paras. 109-110.
- <sup>19</sup> The following abbreviations have been used for this document:
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|--------------|--|
| CERD         | Committee on the Elimination of Racial Discrimination        |
| CESCR        | Committee on Economic, Social and Cultural Rights            |
| HR Committee | Human Rights Committee                                       |
| CEDAW        | Committee on the Elimination of Discrimination against Women |
| CAT          | Committee against Torture                                    |
| CRC          | Committee on the Rights of the Child                         |
| CRPD         | Committee on the Rights of Persons with Disabilities         |
| CED          | Committee on Enforced Disappearance                          |
- <sup>20</sup> CEDAW/C/BRA/CO/7, para.21.
- <sup>21</sup> *Ibid.*, para.29.
- <sup>22</sup> E/C.12/BRA/CO/2, para.38.
- <sup>23</sup> SPT press release: Prevention of Torture: UN human rights body presents confidential preliminary observations to the Government of Brazil available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11457&LangID=E>
- <sup>24</sup> Abbreviations used follow those contained in the communications report of special procedures (A/HRC/18/51 and Corr.1).
- <sup>25</sup> HCHR Press release, November 2011, UN human rights chief hails landmark agreement with Brazil available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9618&LangID=E>. See also OHCHR 2009 Report, Activities and Results, pp. 46 and 120.
- <sup>26</sup> OHCHR 2008 Report, Activities and Results, pp. 174, 179; 182; 183 and 188; OHCHR 2010 Report, Activities and Results pp.79 and 85 and OHCHR 2011 Report, Activities and Results. (forthcoming).
- <sup>27</sup> E/C.12/BRA/CO/2, para.14.
- <sup>28</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062009BRA111, second paragraph. See also E/C.12/BRA/CO/2, paragraph 14.
- <sup>29</sup> CEDAW/C/BRA/CO/7, para.30.

- <sup>30</sup> Ibid., para.31(a).
- <sup>31</sup> E/C.12/BRA/CO/2, para.11.
- <sup>32</sup> Ibid., para. 3 (e.)
- <sup>33</sup> HCHR, Press Release, November 2009: Brazil's indigenous and Afro-Brazilian populations face serious discrimination available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9622&LangID=E>.
- <sup>34</sup> A/HRC/14/24/Add.4, para.62.
- <sup>35</sup> Ibid., para.64.
- <sup>36</sup> Ibid., appendix, para. 4.
- <sup>37</sup> Ibid., para. 5.
- <sup>38</sup> Ibid., para. 13.
- <sup>39</sup> Ibid., para. 14.
- <sup>40</sup> Ibid., para. 17.
- <sup>41</sup> A/HRC/14/24/Add.4, para.6.
- <sup>42</sup> CEDAW/C/BRA/CO/7, para.32.
- <sup>43</sup> Ibid., para.33.
- <sup>44</sup> HCHR, Press Release, November 2009: Brazil's indigenous and Afro-Brazilian populations face serious discrimination available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9622&LangID=E>. See also E/C.12/BRA/CO/2, paragraph 21.
- <sup>45</sup> E/C.12/BRA/CO/2, para.22.
- <sup>46</sup> A/HRC/15/20/Add.4, para 104.
- <sup>47</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Forced Labour Convention 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010BRA029, second paragraph. See also E/C.12/BRA/CO/2, paragraph 15.
- <sup>48</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Forced Labour Convention 1930 (No. 29), 2010, Geneva, doc. No. (ILOLEX) 062010BRA029, thirteenth paragraph.
- <sup>49</sup> CEDAW/C/BRA/CO/7, para.20
- <sup>50</sup> Ibid., para. 21(a).
- <sup>51</sup> A/HRC/15/20/Add.4, para 118.
- <sup>52</sup> E/C.12/BRA/CO/2, para.23.
- <sup>53</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Minimum Age Convention 1973 (No. 138), 2010, Geneva, doc. No. (ILOLEX) 062010BRA138, fifth paragraph.
- <sup>54</sup> E/C.12/BRA/CO/2, para.24.
- <sup>55</sup> UNICEF submission to the UPR on Brazil, 2011, p.3.
- <sup>56</sup> A/HRC/19/44, p. 62.; see also page 32.
- <sup>57</sup> CEDAW/C/BRA/CO/7, para.7.
- <sup>58</sup> Ibid., para.18.
- <sup>59</sup> Ibid., para.19 (a).
- <sup>60</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2010, Geneva, doc. No. (ILOLEX) 062010BRA098, first paragraph. See also E/C.12/BRA/CO/2, paragraph 17.
- <sup>61</sup> HCHR, Press Release, November 2011, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11620&LangID=E>.
- <sup>62</sup> A/HRC/17/38/Add.1, para 77.
- <sup>63</sup> Ibid., para 92 (f).
- <sup>64</sup> UNESCO submission to the UPR on Brazil, 2011, para.42.
- <sup>65</sup> Ibid., paras. 34, 35 and 39.
- <sup>66</sup> Ibid., para. 36.
- <sup>67</sup> HCHR Statement, November 2009, addressed by High Commissioner for Human Rights on the occasion of the 4th National Seminar on the National Programme of Protection of Human Rights Defenders available at

- <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9632&LangID=E>. See also A/HRC/15/20/Add.4, para 101.
- <sup>68</sup> A/HRC/13/33/Add.6, paras. 23, 25 and 51 (f).
- <sup>69</sup> United Nations Statistics Division coordinated data and analyses, available at: <http://mdgs.un.org/unsd/mdg>.
- <sup>70</sup> CEDAW/C/BRA/CO/7, para.23 (a).
- <sup>71</sup> Ibid., para.26.
- <sup>72</sup> Ibid., para.27.
- <sup>73</sup> Ibid., para.27 (b.)
- <sup>74</sup> E/C.12/BRA/CO/2, para.16. See also ILO Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention 1958 (No. 111), 2009, Geneva, doc. No. (ILOLEX) 062009BRA111, second paragraph.
- <sup>75</sup> ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention 1958 (No. 111), 2010, Geneva, doc. No. (ILOLEX) 062009BRA111, first paragraph.
- <sup>76</sup> E/C.12/BRA/CO/2, para.18.
- <sup>77</sup> CEDAW/C/BRA/CO/7, para.12.
- <sup>78</sup> Ibid., para.13(c).
- <sup>79</sup> E/C.12/BRA/CO/2, para.10.
- <sup>80</sup> Ibid., para.20 (a) and (b).
- <sup>81</sup> HCHR, Press Release, November 2009: Brazil's indigenous and Afro-Brazilian populations face serious discrimination available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9622&LangID=E>.
- <sup>82</sup> Press release, 26 April 2011, Brazil off-course for World Cup and Olympics – UN housing expert, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10960&LangID=E>.
- <sup>83</sup> E/C.12/BRA/CO/2, para.19.
- <sup>84</sup> Ibid., para.3 (d).
- <sup>85</sup> UNICEF submission to the UPR on Brazil, 2011, p. 2.
- <sup>86</sup> A/HRC/13/33/Add.6, para. 51.
- <sup>87</sup> Ibid., para 51(i).
- <sup>88</sup> E/C.12/BRA/CO/2, para.25.
- <sup>89</sup> Ibid., para.28.
- <sup>90</sup> United Nations Statistics Division coordinated data and analyses, available at: <http://mdgs.un.org/unsd/mdg>.
- <sup>91</sup> UNICEF submission to the UPR on Brazil, 2011, p. 3.
- <sup>92</sup> E/C.12/BRA/CO/2, para. 3 (f).
- <sup>93</sup> Ibid., para.27.
- <sup>94</sup> CEDAW/C/BRA/CO/7, para.28.
- <sup>95</sup> Ibid., para.29 (a).
- <sup>96</sup> Ibid., para.29 (b).
- <sup>97</sup> E/C.12/BRA/CO/2, para. 29.
- <sup>98</sup> Ibid., para.30.
- <sup>99</sup> A/HRC/12/34/Add.2, para 86.
- <sup>100</sup> E/C.12/BRA/CO/2, para.31(a).
- <sup>101</sup> Ibid., para.12.
- <sup>102</sup> UNICEF submission to the UPR on Brazil, 2011, p. 1. See also E/C.12/BRA/CO/2, paragraph 32.
- <sup>103</sup> UNESCO submission to the UPR on Brazil, 2011, para. 15.
- <sup>104</sup> E/C.12/BRA/CO/2, para.33. See also A/HRC/17/38/Add.1, paragraph 92 (b).
- <sup>105</sup> A/HRC/17/38/Add.1, para 92 (d.)
- <sup>106</sup> E/C.12/BRA/CO/2, para.13.
- <sup>107</sup> HCHR, Press Release, November 2009: Brazil's indigenous and Afro-Brazilian populations face serious discrimination available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9622&LangID=E>.

- <sup>108</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Indigenous and Tribal Peoples Convention 1989 (No. 169), 2010, Geneva, doc. No. (ILOLEX) 062010BRA169, fifth paragraph.
- <sup>109</sup> A/HRC/12/34/Add.2, paras 78-79.
- <sup>110</sup> Ibid., para 85.
- <sup>111</sup> ILO Committee of Experts on the Application of Conventions and Recommendations Individual Observation concerning Indigenous and Tribal Peoples Convention 1989 (No. 169), 2011, Geneva, doc. No. (ILOLEX) 062011BRA169, eighth paragraph.
- <sup>112</sup> Ibid., sixteenth paragraph.
- <sup>113</sup> E/C.12/BRA/CO/2, para.9.
- <sup>114</sup> UNHCR submission to the UPR on Brazil, 2010, p.4.
- <sup>115</sup> Ibid.
- <sup>116</sup> Ibid., p.5.
- <sup>117</sup> Ibid.
- <sup>118</sup> Ibid., p.3.
- <sup>119</sup> Ibid., p.4.
- <sup>120</sup> E/C.12/BRA/CO/2, para.26.
- <sup>121</sup> A/HRC/13/33/Add.6, para 51 (k).
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