

**Universal Periodic Review  
(13<sup>th</sup> session, 21 May - 1 June 2012)**

**Contribution of UNESCO**

**BRAZIL**

**I. Background and framework**

**1. Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO**

**A. Table**

| <i>Title</i>   | <i>Date of ratification, accession or succession</i> | <i>Declarations /reservations</i>                             | <i>Recognition of specific competences of treaty bodies</i> | <i>Reference to the rights within UNESCO's fields of competence</i> |
|--|--|---|---|---|
| Convention against Discrimination in Education 1960                                      | 19/04/1968   | <i>Reservations to this Convention shall not be permitted</i> |   | Right to education  |
| Convention on Technical and Vocational Education. 1989                                   | Not ratified   |   |   | Right to education  |
| Convention concerning the Protection of the World Cultural and Natural Heritage 1972     | 01/09/1977   | Not to be bound by the provisions of Article 16 (1)           |   | Right to take part in cultural life                                 |
| Convention for the Safeguarding of the Intangible Cultural Heritage 2003                 | 01/03/2006   |   |   | Right to take part in cultural life                                 |
| Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 | 16/01/2007   |   |   | Right to take part in cultural life                                 |

## II. Promotion and protection of human rights on the ground

### 1. Right to education<sup>1</sup>

#### A. Normative Framework

##### i. Constitutional framework

1. The federal Constitution of 1988 defines education as a social right of the Brazilian citizen (*Article 6*) and an obligation of the state and the family (*Article 205*). In addition, *Article 7* recognizes the right of urban and rural workers to get “nationally unified minimum wage, established by law, capable of satisfying their basic living needs and those of their families with [...] education”. The Constitution dedicates in-depth articles to Education inside, Title VIII, Chapter III: On Education, Culture and Sports (Section 1 on Education, *Articles 205-214*). Chapter III guarantees compulsory and free primary education for all, including those who did not have the opportunity to access school at the proper age. It also guarantees a gradual shift to a free and compulsory secondary education (*Articles 206, 208*). It recognizes the right of Indian Communities to use their native language and specific learning procedure at elementary level (*Article 210*). The Constitution lays down that the Union shall apply, annually, never less than eighteen percent, and the states, the Federal District, and the municipalities, at least twenty-five percent of the tax revenues (*Article 212*). With the *Constitutional Amendment No. 59 of 11 November 2009*, the duration of compulsory education increased from 9 to 14 years (from 4 to 17 years of age) (*Article 208*); the states and municipalities should complete the process of progressive extension of compulsory education by 2016.

##### ii. Legislative framework

2. The *National Education Guidelines and Framework Law (Lei de Diretrizes e Bases da Educação—LDB) No. 9.394*, approved on 20 December 1996, lays down aims and objectives, means and powers of educational actions.

3. After the LDB followed other important laws, expanding it, modifying its provisions or, in the majority of cases, regulating and making practical what it instituted. Of the subsequent laws, *Law No. 10.172, of 9 January 2001* is worth noting which published the *National Educational Plan* which is the main reference point for Education for All in the first decade of the twenty-first century. In November 2002,

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<sup>1</sup> Sources:

- 1988 Constitution :  
[http://bd.camara.gov.br/bd/bitstream/handle/bdcamara/1344/constituicao\\_ingles\\_3ed.pdf?sequence=7](http://bd.camara.gov.br/bd/bitstream/handle/bdcamara/1344/constituicao_ingles_3ed.pdf?sequence=7)
- National report submitted in 2007 within the framework of the seventh consultation of Member States on the measures taken for the implementation of the 1960 UNESCO's Convention against Discrimination in Education (covering period 2000-2005).
- National Report of Brazil, The development of education, Inclusive education: the way of the future, 48th Session of the International Conference on Education, Geneva, 2008, available at:  
[http://www.ibe.unesco.org/National\\_Reports/ICE\\_2008/brazil\\_NR08.pdf](http://www.ibe.unesco.org/National_Reports/ICE_2008/brazil_NR08.pdf)
- International Bureau of Education:  
[http://www.ibe.unesco.org/fileadmin/user\\_upload/Publications/WDE/2010/pdf-versions/Brazil.pdf](http://www.ibe.unesco.org/fileadmin/user_upload/Publications/WDE/2010/pdf-versions/Brazil.pdf)
- EFA Global monitoring Report 2010: <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>

*Law No. 10558* made official the establishment of the *Diversity in the University Program* within the Ministry of Education (MEC), aiming to implement and evaluate strategies to promote the access of individuals belonging to socially disfavored groups, especially the black and indigenous native populations, to higher education. The LDB was then amended by *Law No. 10639/03*, which rendered mandatory the introduction of Afro-Brazilian Culture and History in the official curriculum of the Education Network.

4. Still deserving of mention are: *Law No. 9.795*, of 27 April 1999, that instituted the National Policy for Environmental Education; *Law No. 10.219*, of 11 April 2001, that created the National Minimum Income Program connected to education (the school Grant Program, “*Bolsa Escola*”); *Law No. 10.436*, of 24 April 2002, which regulates the Brazilian Sign Language (Libras); *Law No. 10.861*, of 14 April 2004 which institutes the National System for Evaluation of Higher Education (SINAES); *Law No. 10.845*, of March 5<sup>th</sup> 2004 which created the Program for Complementation of the Specialized Educational Services for people with Disabilities; *Law No. 11.129*, of 30 June 2005 – it instituted the National Program for Youth Inclusion (*Projovem*), the National Youth Council and the National Youth Secretariat; *Law No. 11.180*, of 23 September 2005, which created the Factory School Project, authorized the concession of persistence allowance to students who are beneficiaries of the University for All Program (*Prouni*) and instituted the Tutorial Education Program, allocating grants for scientific initiation to undergraduate students and tutorial grants to advising teacher; and finally, *Law No. 11.738*, of 16 July 2008 which sets the national minimum wage for public teaching professionals in basic education.

## **B. Policy measures**

5. In April 2007, the Ministry of Education launched the *Educational Development Plan (PDE)*.

6. In Brazil, greater equity in national budgeting has been a central pillar of wider national strategies aimed at breaking the links between poverty, inequality and marginalization in education. *Bolsa Família*, one of the developing world’s largest social protection programmes, transfers 1% to 2% of Brazil’s gross national income to 11 million of its poorest households. The average transfer is around US\$35. Most of this is spent on health, education and clothing. This programme has helped improve basic education significantly. Education budget reforms have attempted to address disparities associated with large inter-state wealth inequalities.

7. The *Literate Brazil Programme (Programa Brasil Alfabetizado)* initiated in 2003 is the first concerted national effort to consign illiteracy to the history books. It functions in 3,699 municipalities, just over 1,000 of which have been accorded priority status because they have illiteracy rates over 25%. The effort primarily targets disadvantaged groups such as indigenous people, small farmers and farm workers, child labourers (as part of the Programme to Eradicate Child Labour) and people covered under the *Bolsa Família* social protection programme. *Literate Brazil* is open to anyone over 15 with less than a year of education. Thus far it has provided literacy training to about 8 million learners.

8. In 2006, two courses (distance and on-site training) were delivered to train teachers on ethnic-racial diversity. The distance course was delivered in partnership with the

University of Brasilia, benefiting 5,000 education professionals of the National Education System. The on-site course reached 7,000 professionals in the 26 Brazilian capital cities in the Federal District, and in the municipalities that host racial equity promotion agencies recognized by the Special Secretariat of Racial Equity Promotion. In addition, the Ministry of Education has developed many projects in order to contribute to the creation of successful teaching practices in order to combat ethnic-racial and gender discrimination, by producing audiovisual materials on Afro-Brazilian history and culture, by assessing inclusion initiatives, and by according visibility to the instances of affirmative action already promoted in society at large. In addition, Decree No. 6.755 of 29 January 2009 established the *National Policy for the Training of Basic Education Teachers*, and a *National Plan for Training of Basic Education Teachers (PARFOR)* was defined accordingly.

### **C. Cooperation**

9. Brazil submitted a report, in 2007 within the framework of the seventh consultation of Member States on the measures taken for implementation of the Convention against Discrimination in Education (covering period 2000-2005).

10. Brazil did not report within the framework of the fourth consultation of Member States on the measures taken for the implementation of the 1974 UNESCO Recommendation *concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms* (covering the period 2005-2008).

## **2. Right to take part in cultural life**

### **A. Normative Framework**

#### **i. Constitutional framework**

11. Cultural rights are recognized in the 1988 Federal Constitution (esp. art. 23, V and art. 215), including the promotion of cultural expressions (art. 221), the rights of young people (art. 227) and indigenous peoples (art. 231). The Constitution establishes the legal framework for the protection of those rights, and also places cultural heritage – both tangible and intangible – under protection, even providing the legal means (collective legal action – art. 5, LXXIII) for popular mobilization. Moreover, cultural rights with respect to education and the use of languages are also recognized by the Constitution, (article 210). Specific rights of indigenous peoples (articles 210.2, 231 and 232) and Quilombo communities (article 68) are recognized as well.

#### **ii. Legislative framework**

12. Being a Federal state, Brazil comprises 26 federated states, a Federal District and 5,507 municipalities. Federated states are autonomous and have the prerogative to adopt their own constitution and laws within the limits established by the Federal Constitution. Municipalities enjoy restricted legislative autonomy. The degree of protection of cultural rights adopted by states and municipalities vary significantly.

13. At the federal level, the Constitution provides the basis for adopting legislation on tax incentives to promote culture (article 216.6). Law 8.313 of 1991 (known as the Rouanet Law) created the National Programme to Support Culture (PRONAC). It enables taxpayers (especially companies) to benefit from tax exemptions for sponsoring cultural projects. It is a fundamental tool to foster cultural production nation-wide, and steps are being taken to increase its focus on regional and local cultural expressions. Additionally, five funds are being created. They will allow direct sponsor areas such as arts, books and reading, diversity, citizenship and access, memory and Brazilian cultural heritage and will co-exist with the existing fund for audiovisuals.

14. Brazil already had advanced intangible heritage legislation before the adoption of the 2003 Convention, its safeguard being also enshrined in the Federal Constitution. Many states and municipalities, however, have developed a specific legal and policy framework afterwards.

15. Nonetheless, in the field of education and cultural diversity, Brazil has adopted specific laws on the cultures of indigenous peoples and people of African descent. These include Law 10.639 of 2003 which introduces the compulsory study of Afro-Brazilian history and culture in primary and secondary schools, and Law 11.645 of 2008, which seeks to promote public awareness of indigenous cultures and rights in the media and in the general education system.

16. On the racial equality front, the Racial Equality Statute (Law 12.288 of 2010) aims to combat racism and prejudice on racial grounds and to remedy historical wrongs. It includes means to protect freedom of religion and belief and to promote respect for cultural diversity through education, ensure access to land rights and recognize the collective manifestations of Afro-descendants as intangible cultural heritage. The Statute further seeks to ensure the cultural rights of Quilombo communities, to celebrate key dates related to Brazilian cultural expressions of African origin nationally, and to promote and safeguard Capoeira, a sport of African-Brazilian origin, as intangible cultural heritage, all in line with the principles of the 2003 Convention.

## **B. Institutional framework**

17. Each Brazilian state and municipality is allowed to adopt its own institutional arrangements. At the federal level, however, the Ministry of Culture (and its attached agencies such as IPHAN for cultural heritage and the Palmares Foundation, for Afro-Brazilian culture) plays a prominent role in policy design and implementation. In 2003, the Ministry's Secretariat for Identity and Cultural Diversity was created and is currently the main body in charge of implementing the provisions of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005. It presently carries out the Plural Brazil programme, which seeks to ensure access by groups and networks of cultural producers to support and promotion mechanisms, and to enhance cultural exchanges between regions and groups in Brazil, taking into consideration factors such as gender, sexual orientation, age, ethnicity and the so-called popular culture.

18. Also attached to the Ministry of Culture, IPHAN, the country's heritage agency, has created a dedicated Intangible Heritage Department, also owing to the ratification

of the Convention for the Safeguarding of the Intangible Cultural Heritage 2003. It has since then become responsible for the main policies and programmes in this field.

19. Several other institutions at the federal level are also relevant for the promotion and protection of cultural rights: the Secretariat of Science and Technology for Social Inclusion, the Secretariat for Human Rights, the Secretariat for Policies on Women, and the Secretariat on Strategic Affairs, among others, all of which coordinate and implement policies, plans and programmes within their respective mandates to mainstream the promotion of culture and cultural rights-related issues.

### **C. Policy measures**

20. Brazil's Pluri-Annual Plan (PPA) conveys several instructions and budget provisions for cultural policies at the federal level. Those are mainly allocated to the Ministry of Culture, but also to other related government agencies. A new PPA is being developed for the 2012-2015 period.

21. Embodying the provisions of UNESCO's 2003 and 2005 Conventions in particular, the National Plan on Culture (NPC) is the main long-term policy framework for the protection and promotion of cultural diversity in Brazil. The NPC was adopted in December 2010, after seven years of broad consultations involving a variety of stakeholders. Its primary goal is to promote universal access to the production and enjoyment of cultural goods and services in Brazil. It seeks to ensure access by all to the cultural life, by increasing access to, as well as use of, theatres, museums and cinemas at all levels of society and in all regions. It also aims to ensure the documentation, promotion and protection of cultural diversity, including the cultures of indigenous peoples and Afro-Brazilians, to strengthen the capacity of the State in the planning and execution of cultural policies and to increase the population's reading habits.

22. The National System of Cultural Information and Indicators– SNIIC - was created along with the NPC to help integrate cultural policies adopted by the Federal Government, the states and municipalities. It aims to decentralize and organize the cultural development of Brazil to ensure the continuity of all projects in the field of culture.

23. Additionally, the latest edition of the National Human Rights Policy (NHRP-III), published in 2009, addresses the promotion of the right to culture, leisure and sports as formative elements of citizenship contributing to the major goal of universalizing human rights in a context of inequalities.

### **D. Cooperation**

24. UNESCO supports several culture-related projects and programmes, including the Regional Centre for the Safeguarding of Intangible Cultural Heritage in Latin America (CRESPIAL), of which Brazil is a member. A Category II centre for cultural heritage is also being established in Brazil under the auspices of UNESCO. Its main purpose will be to provide technical expertise and facilitate exchanges among Latin America and African Portuguese-speaking countries in this field.

25. UNESCO's country office in Brasilia has also taken part in several other cooperation activities, in particular with the Federal Government, but also with beneficiary communities. Those capacity-building and awareness-raising activities contribute to the implementation of the main cultural conventions and to the promotion of their principles.

**E. Work with civil society**

26. Civil society organizations are involved in several steps of national policy design, through regular consultations on the most relevant issues, as well as in implementation.

27. NGOs and cultural producers are the principal stakeholders and implementation partners of the Cultural Points programme, which was created in 2007 (see below). They may also take part formal or informally in intangible and tangible heritage nominations, language documentation and in monitoring the state of conservation of heritage sites.

**F. Achievements, best practices, challenges and constraints**

28. The Culture Points Programme (CPP) was created by the Ministry of Culture in 2007. Its aim is to support and further promote cultural community initiatives and projects, stimulating participation in the cultural life and fostering the production and dissemination of cultural values and goods. It currently supports more than 2,000 projects through 3-year grants that may be used for capacity-building activities, the purchase of instruments, design and multimedia equipment as well as for the production of cultural spectacles and events. Projects from remote areas that score poorly on the Human Development Index, as well as those from groups that are traditionally excluded may be given priority. The cultural points have drawn considerable engagement.

29. As for intangible heritage, visible achievements include national inventories being carried out, and the register of various elements that have been accomplished. Those comprise more than 10 extensive registers at the federal level, some of which refer to indigenous cultures and African-Brazilian heritage. Several other registers at the state and local level are also being carried out, many resulting from demands from the civil society.

30. Practices worth noting also include language documentation being carried out by the Museu do Indio, with the participation of indigenous communities and UNESCO's support. By creating skills for the communities to develop their own documentation and register activities, it ensures their languages and associated heritage have the means to be safeguarded and younger generations are able to retain the ability to participate in the community's cultural life and transmit their people's culture and traditions.

31. Inspired by UNESCO's intangible heritage programme, the Griot programme aims to safeguard intangible cultural heritage, in particular oral traditions transmitted across generations, cultural practices, representations and expressions, as well as associated instruments, objects, artifacts and places, fully in line with the objectives of the 2003 Intangible Heritage Convention. The programme is being implemented in a few

Brazilian cities by the Ministry of Culture and its partners. It provides financial and material support to griots, which are considered to be the repositories of oral tradition, belonging to entire communities.

32. The development of local preservation plans for the historical cores of more than 150 cities of various sizes, carried out in the framework of UNESCO's cooperation agreement with the Ministry of Culture, is also regarded as an important measure to bring preservation of heritage sites closer to local communities.

**G. Capacity-building and technical assistance provided and/or recommended by UNESCO**

33. UNESCO, in particular through the Brasilia Office, provides technical assistance in the framework of several cooperation agreements with the Federal and state governments for the effective implementation of the 1972, 2003 and 2005 Conventions. Special focus is put on training government staff and local managers, developing more effective information gathering and sharing for policy design implementation, support and development of local agencies and fostering civil society participation. Other capacity building measures are also put in place using regular programme funds, with a more local or punctual quality.

**3. Freedom of opinion and expression**

**A. Achievements, best practices, challenges and constraints**

**i. Legislative framework**

34. The 1988 Constitution guarantees freedom of expression and the right to information. There have been legal as well as regulatory framework improvements over the past years. For example, 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 is a positive step for the improvement of freedom of expression and press freedom in the country.

35. However, Brazil's main regulatory framework regarding freedom of expression and press freedom is outmoded, dating from 1962. Two challenges, in particular, need to be addressed by a new regulatory framework: the lack of media pluralism which characterizes Brazil's highly-concentrated, privately-owned media landscape and the absence of an independent regulator.

36. It is also necessary to highlight that Brazil still does not have a Freedom of Information law, despite the fact that the right is protected by the Constitution. The government did send a bill to the Congress in 2009, which was approved, but it remains under Senate analysis for the moment.

37. In addition, the efforts of the Brazilian government in promoting access to public information have been internationally recognized. Brazil was invited, for instance, to co-chair the Open Government Partnership and its transparency portal was recommended as best practice by the UN Convention against corruption.

38. Another challenge is that of public service broadcasting (PSB), which has traditionally been weak in Brazil due to a variety of historical reasons. According to UNESCO's recent analysis of the current regulatory situation in the country, Brazil's public broadcasting sector is far too small and under-resourced to meet the country's needs. This is particularly important because PSB fulfils a role in Brazil that neither commercial media nor state media could provide.

39. UNESCO recognizes that the government and the Congress, as well as civil society, are engaged in a multi-stakeholder effort to address these issues. The Federal Government is discussing a new regulatory framework for broadcasting media aiming to bring the principles already present in the Constitution into law. A draft bill is expected to be sent to the Congress soon. A new PSB company was recently created and several efforts are being made in order to guarantee its independence from the government.

40. Community media is another broadcasting sector which faces various problems in the country. It is under-financed and hundreds of radio stations are not licensed.

## **ii. Media Self-regulatory system**

41. In response to government attempts to improve laws regulating the press, the Brazilian National Association of Newspapers launched a self-regulation programme, including the creation of ombudsmen system, in May 2011.

## **iii. Safety of Journalists**

42. The safety of journalists in Brazil continues to be poor, despite several high profile convictions in recent years. Between 2008- 2011, UNESCO's Director General has condemned five killings of media professionals in the country including newspaper journalist Valério Nascimento; TV journalist, Luciano Leitão Pedrosa; radio journalists, José Givonaldo Vieira, Francisco Gomes de Medeiros and former press secretary of the government, Auro Ida. The majority of these crimes are related to organized crime and local politics (reprisals for investigative journalism against local corruption practices).

## **B. Capacity-building and technical assistance provided and/or recommended by UNESCO**

43. UNESCO experts were invited to contribute to the development of new media legislation in accordance with international standards by the Federal Administration, Parliament and other relevant stakeholders. UNESCO's Brasilia Office has prepared several reports on media regulation, freedom of expression, PSB and self-regulation, which have been employed by policy makers.

44. UNESCO's Media Development Indicators (MDI) have also been applied in assessing the media landscape in Brazil. The resulting document was discussed during the Public Hearings in the Parliament and one of the official think tanks on statistics (IPEA) is collecting data on media in the country, on the basis of the MDIs.

45. UNESCO is seeking to raise awareness on the need for more debate around the Judiciary Power's role in protecting press freedom.

46. The major PSB corporations are working closely with UNESCO experts in order to foster the quality of their performance.

47. UNESCO has been invited by the Brazilian government (Office of the Comptroller-General and National Archives) to assist in implementing a new access to information policy. A massive capacity building process for federal public servants is also being prepared with UNESCO's support.

### **III. Recommendations**

#### **1. Right to education**

48. Brazil should be encouraged to report to UNESCO within the framework of the eighth consultation of Member States on the measures taken for the implementation of the Convention against Discrimination in Education (covering the period 2006-2011).

#### **2. Freedom of opinion and expression**

49. UNESCO recommends:

- a. Media law reform must be completed to foster freedom, editorial independence and pluralism of media
- b. The role of the Judiciary power in fostering freedom of expression should also be strengthened. Nationwide multi-stakeholder discussion led by the National Council of Justice could be useful in this regard
- c. International cooperation is essential to ensure the effective implementation of the Freedom of Information law after its approval by the Senate
- d. The Brazilian government should promote the Open Government Partnership as effective practice in fostering the right to information