

## UNCT Brazil Report – UPR Brazil 3rd cycle

### Acceptance of international norms

1. Brazil ratified most human rights instruments and integrated its principles into national legislation. Since 2010, the Brazilian Government waits for the National Congress to ratify the Convention on Migrant Workers and their families (119.7;119.8) as well as ILO Conventions n.189, n.87 (119.10) and n.156. The Optional Protocol on ESCR (119.9) and the Third Optional Protocol on the Convention on the Rights of the Child, both establishing communications procedures, are also pending ratification. *It is recommended that the Parliament provide expedite efforts to ratify human rights treaties.*

### Inter-state cooperation and development assistance

2. Through South-South and Triangular cooperation, the government shared with other countries its experience tackling hungry and poverty, promoting health, Women's Rights and the empowerment of women and girls, as well as other good practices with the support of PAHO, UNDP, IPC, FAO, UNICEF, WFP, UNFPA, UNHCR and UN Women (119.29;119.30). *UNCT Brazil recommends that the Brazilian government continue to share good practices with other countries and to support the design and implementation of public policies that contribute to the achievement of the SDGs in developing countries.*

### Constitutional and legislative framework

3. Despite the Ministry of Justice's efforts to adjust the Brazilian legislation to the obligations arising from the Rome Statute (119.4;119.5), changes are still pending. *The UNCT recommends the adoption of effective steps for adjusting the national legislation regarding the surrender and extradition of persons to the ICC, in compliance with the Rome Statute.*
4. In 2015<sup>1</sup>, the UNCT Brazil issued a position paper on human rights and diverse family arrangements in the country. The UNCT is concerned that bills presented to the Parliament threaten to withdraw the rights of LGBT persons and reinforce gender inequality and Gender-Based Violence (119.24). *The UNCT recommends that the government ensure the exercise of fundamental rights to different types of families.*
5. Despite Brazil's international leadership on LGBTI issues, in 2015, the newly elected Congress members created additional challenges to the rights of LGBTI people. The proposed Family Statute, which

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<sup>1</sup> <https://nacoesunidas.org/wp-content/uploads/2015/10/onu-est-familia.pdf>

excludes LGBTI families from the concept of family, or the proposed National Day of Heterosexual Pride gained support while proposals such as the gender identity bill and the criminalization of homophobia did not make any progress. *UNCT recommends the Parliament adopt legislation in compliance with international obligations, ensuring LGBTI persons are also entitled to human rights protection.*

6. In January 2016, the Statute of Persons with Disabilities (Law 13.146<sup>2</sup>) entered into force (119.39). With UNESCO's support, the government took steps to enhance current mechanisms for designing and implementing public policies for the accessibility of persons with disabilities (119.35). *The UNCT recommends that the government (at all levels) adopts a human rights based approach in the implementation of the obligations arising from the Statute of Persons with Disabilities, ensuring public policies and services are accessible to persons with disabilities and address their needs<sup>3</sup>.*
7. The Brazilian Constitution identifies children as 'absolute priority' and places the responsibility on families, communities and the state to ensure their protection and prioritized access to services. Brazil has a strong legal framework pertaining to children's rights, although gaps remain, such as *the need to recognize the right to participate in all matters involving them. The draft bill n.3792/2015, which seeks to incorporate international standards on justice procedures involving children as victims or witnesses, was submitted to the Brazilian Parliament.*
8. The Children and Adolescent Statute (ECA)<sup>4</sup> recognizes that children are independent full-fledged human beings who have civil, socio-economic, and political rights. The legal framework has further consolidated the human and social rights of Brazilian boys and girls in the Doctrine of Integral Protection, enshrining the principles of the Convention of the Rights of the Child and its Optional Protocols. Despite this progress, the National Congress has been discussing controversial amendments to lower the age of criminal responsibility from 18 to 16 years to the increase disproportionately the number of years of incarceration of adolescents accused of criminal offenses in Brazil, and to lower the minimum age for labor. Public opinion in Brazil is in favor of lowering the age of criminal responsibility, as demonstrated by a recent national poll (more than 85% of respondents agreed to the measure). Also, conservative groups have presented proposals to repeal the ban on corporal punishment, the bill criminalizing homophobia and to impede on the delivery of sexual and reproductive health programmes in schools. *The UNCT recommends that Brazil keep its legislation aligned to the international human rights standards as the CRC<sup>5</sup>.*

## Institutions and policies

### Poverty reduction

9. Despite the relevant improvement in poverty reduction in the past decade, Brazil still needs to increase access to inputs and public services. The Gini coefficient on income has reduced from 0.555 to 0,497 (2004–2014). However, regional inequalities within the country persist (Santa Catarina 0,429; Federal

<sup>2</sup> [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2015-2018/2015/Lei/L13146.htm](http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/Lei/L13146.htm)

<sup>3</sup> [https://nacoesunidas.org/wp-content/uploads/2015/07/UN\\_Position\\_Paper-People\\_with\\_Disabilities.pdf](https://nacoesunidas.org/wp-content/uploads/2015/07/UN_Position_Paper-People_with_Disabilities.pdf)

<sup>4</sup> Law No. 8190 of 1990.

<sup>5</sup> The UNCT statement is available at: <http://bit.ly/1fuu7f9>

District - 0,565) as well as disproportionately affect women, people of African descent and indigenous peoples (119.139;119.140;119.143;119.145;119.150).

10. The strengthening of family agriculture and income transfer programmes such as “Bolsa Família” and the National Programme for Strengthening Family Agriculture have contributed for tackling hunger in the country. The governmental investment in agricultural policies addressed to Family agriculture amounted to R\$ 17,3 billion (2013). *The UNCT recommends that Brazil adopts a human rights based approach to poverty reduction strategies, including gender, racial and ethnical perspectives, in consultation with the affected populations.*
11. Since 1988, Brazil has established councils (national, state and municipal), with consultative status, for designing and monitoring public policies in several areas (119.6). Those councils meet regularly and have active participation of social movements. In 2016, most national councils decreased the number of meetings. It is not clear whether the new federal administration will maintain such structures or adopt new mechanisms for insuring the right to participation for monitoring public policies. *The UNCT recommends that the government ensure the necessary budgetary, administrative and political independence for the functioning of all national, state and municipal councils.*

#### National Human Rights Institution

12. Law 12.986<sup>6</sup> established the Nacional Council for Human Rights (119.16,119.22). Although full compliance with the Paris Principles is still pending, in July 2016 the government requested accreditation as a National Human Rights Institution (119.17,119.18,119.19,119.20,119.21,119.22,119.23). *The UNCT recommends amending legislation to provide the National Human Rights Council with the necessary budgetary, administrative and political independence for implementing its functions.*

#### Migrants and refugees

13. More than at any other time in history, today people are moving faster and traveling longer distances by a complex set of reasons. Some leave in search of better living conditions, others trying to escape conflict, persecution and human rights violations. There are still those who leave their homes due to climate change and environmental disasters. Sometimes migration is a choice, in others a necessity.
14. The influx of asylum seekers and migrants to Brazil has considerably increased in the past few years. UNHCR has collaborated with the Brazilian government to grant visa requests to those affected by the conflict in Syria, issuing documents for refugees free of charge, increasing the expire date on refugees’ identity cards from 2 to 5 years, supporting refugees’ access to higher education, creating local committees for the protection of refugees and enabling access to social programmes (119.70)<sup>7</sup>. Nevertheless, reports on discrimination and harmful practices such as keeping asylum seekers blocked indefinitely at a transit area located at Guarulhos’ International Airport have been raising concerns on human rights authorities, as expressed by the UN Special Rapporteur on Torture<sup>8</sup>. *UNCT Brazil recommends the adoption of a National Plan for Local Integration of Refugees, a nation-wide public policy framework for the successful integration of refugees and asylum seekers.*

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<sup>6</sup> [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2011-2014/2014/Lei/L12986.htm](http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2014/Lei/L12986.htm)

<sup>7</sup> Social programmes such as Bolsa Família” and “Minha Casa, Minha Vida,

<sup>8</sup> A/HRC/31/57/Add.4; Para.127, 150(f).

15. Families are becoming increasingly mobile and are migrating in search of economic opportunities. As regards the onward migration flows from Haiti, IOM has signed an agreement with the Ministry of Foreign Affairs and established the “Brazil Visa Application Center (BVAC)” in Port-au-Prince, Haiti, as an effective means to increase the processing of humanitarian permanent visas in response to the concern over the number of Haitian migrants who risk to be subjected to migrant smuggling and trafficking networks. Migrants do not always have birth certificates or identity documents, and are in some cases stateless, which can put children at risk of being trafficked and/or further abuse and exploitation. Brazilian immigration law stems from the military dictatorship, which views immigration as a national security issue instead of adopting a human rights perspective. IOM and UNHCR submitted comments to the draft migration law to ensure relevant standard of international migration, human rights and refugee law are complied with. *UNCT Brazil recommends the adoption of the new Law on Migration, in compliance with international standards and with specific provisions on the protection of stateless persons, as submitted to the National Congress.*

#### Persons with disabilities

16. With more than 45 million people living with disabilities in the country<sup>9</sup> (23.91% of its population), Brazil has a strong framework on the rights of persons with disabilities, including legislation and public policies promoting social inclusion and non-discrimination. The domestication of the UN Convention on the Rights of Persons with Disabilities led to the development and the implementation of the different public policies to promote and protect the rights of persons with disabilities, including children. Despite all progress, there are specific challenges, constraints and issues of concern in relation to children with disabilities, including regarding data collection.

#### Children

17. Brazil counts with a Ten-Year Plan on Children Rights<sup>10</sup> (199.33), as well as sectoral plans for children in conflict with the law and against sexual violence.
18. Currently, children with disabilities have difficulties accessing schools and proper learning and educational tools, as well as medical treatment. Besides that, many school buildings and public spaces are not accessible. Obtaining complementary medical exams remains extremely difficult and surgical and therapeutic treatments are only available in larger cities. Furthermore, the access of persons with disabilities, including adolescents, to sexual and reproductive health, comprising STD/HIV/AIDS programmes and services, is insufficient still.
19. Although Brazil improved the program BPC in School (a cash transfer program to persons with disabilities that includes an intersectorial dimension in which education, health and social protection work together to promote school inclusion for children (0-18)), gaps related to its quality and coverage remain in order to ensure universal education for children with disabilities. The main remaining challenges are *the adoption of inclusive methodologies; adequate didactic materials to schoolteachers; specialized training of teachers and other professionals, and adapted infrastructure in schools facilities* for children with disabilities.
20. To address the full realization of the rights of persons with disabilities, *the UNCT recommends requires an integrated approach and the engagement of different areas of government, ensuring coordination and public funding for initiatives to benefit persons with disabilities.*

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<sup>9</sup> IBGE, National Census 2010.

<sup>10</sup> [http://www.crianca.mppr.mp.br/arquivos/File/download/plano\\_decenal\\_conanda.pdf](http://www.crianca.mppr.mp.br/arquivos/File/download/plano_decenal_conanda.pdf)

## LGBTI

21. Although Brazil does not criminalize LGBTI people, reports by civil society organizations point that Brazil has one of the highest levels of violence against LGBTI people: it is the country that kills the most transgender people in the world (TGEU, 2016). Life expectancy for transgender people in Brazil is not any higher than 35 years, when the average Brazilian lives up to 75 years old (IBGE, 2015). The transgender organization RedeTrans accounts that from January to July 2016, there have been already 72 cases of murder of transgender persons, 25 attempted homicides, 27 cases of aggression and 8 cases of suicide. In 2012, for the first time, the Brazilian government published a report<sup>11</sup> on homophobic violence: it registered 9.982 situations of human rights violations against LGBT people. Recent visits of UN special rapporteurs to Brazil highlighted the vulnerability of LGBTI people in the country and called for their protection<sup>12</sup>. Through the UN Free & Equal Campaign, since 2014, the UNCT Brazil promotes awareness on the need to *urgently address violence against LGBTI people through timely investigation, punishment of perpetrators and sensitization on LGBTI equality*.

## Prison System and prevention of torture and other cruel, inhuman and ill-treatment

22. The Ministry of Justice started revising the guidelines for prison policies and strengthening management in prison units, focusing in improving conditions in prison units, reducing excessive imprisonment, and tackling the practice of torture. However, the situation of prisons remains challenging (119.66,119.67, 119.68,119.69,119.71,119.72,119.73,119.74,119.75,119.78), with conditions amounting to cruel, inhuman or degrading treatment and lack of consideration of the special needs of women (119.76, 119.77), LGBTI and other vulnerable populations, as noted by the UN Special Rapporteur on Torture<sup>13 14</sup>, requiring effective actions and commitment at all levels of government. High rates of homicides are also matter of concern still (119.70).
23. Law 12.962/14 emphasizes the right to family life, and together with the Penal Law, it ensures the liberty of children of incarcerated parents. Home hostels are being considered to ensure that families, as opposed to the state, can continue to provide care for their children. Nevertheless, the number of incarcerated women continues to grow, and often children remain with the mother in incarceration or state care facilities. Public policies of care recognizing or guaranteeing the rights of mothers deprived of liberty, or that of their children, to basic services and protection measures are insufficient or not aligned with the Bangkok Rules. Few studies and data on the situation of incarcerated mothers and their children exist that can provide evidence to influence the development of such a policy and guidelines. Reports from civil society on the human rights of imprisoned mothers show that babies have been taken away immediately after birth, obstructing breastfeeding and bonding between mother and baby. Pregnant women should be provided with the necessary prenatal and postnatal care and support services for both mother and baby.

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<sup>11</sup> <http://www.sdh.gov.br/assuntos/lgbt/pdf/relatorio-violencia-homofobica-ano-2012>

<sup>12</sup> [A/HRC/31/57/Add.4, Para 32-36, 148 \(f\)](#); [A/HRC/31/56/Add.1, Para.121](#)

<sup>13</sup> [A/HRC/31/57/Add.4](#)

<sup>14</sup> The number of inmates increased 74 per cent during the period 2005-2012.

24. *It is recommended that a public policy and related minimum standards of care governing the rights of mothers deprived of liberty, including those of adolescent mothers, and the rights of children under her care be developed. The policy and guidelines should identify the mother's and child's rights to basic services, including health, education, and protection, and psychosocial care and support.*
25. In 2014<sup>15</sup>, 24,628 adolescents were registered at the National Socioeducational System (SINASE), among those 16,902 were sentenced to deprivation of liberty, 56% is 16/17 years old and 55,8% is of African Descent. UNICEF, UNDP, ILO and UNOPS also provide technical advice to the federal government, states and municipalities on the General Coordination of SINASE for staff training, construction/renovation of socioeducational centers to ensure general compliance with the international standards on children in conflict with the law and/or deprived of liberty.
26. The quality of the access of adolescents to justice brings another set of challenges and concerns. Brazil has formal instruments of legal protection and juvenile justice that have not been enforced properly, and are underused by legal operators. Data seems to indicate a biased approach towards deprivation of liberty instead of the adoption of non-incarceration measures, especially for those of African descent. Adolescent infractions/offenses are dealt with punitive perspective and often followed by measures of deprivation of liberty. The conditions at deprivation of liberty facilities are sub-standards, overpopulated and far from being educational or fit for reintegration purposes. Cases of torture, abuses and mistreatment are reported regularly.
27. *UNCT Brazil recommends the implementation of mechanisms for improving the conditions of persons deprived of liberty as well as adopting alternatives to prison in order to reduce overcrowding and enable better conditions for resocialization.*

#### **Human Rights Defenders and freedom of opinion**

28. Cases of summary executions, threats and persecution of human rights defenders increased in 2016, according to civil society reports. The downgraded status of governmental structures that used to provide protection for human rights defenders and the lack of legal status to those policies raise strong concerns on whether the state would be able to continue fulfilling its responsibility to protect them as well as to discourage further attacks (119.83,119.86). *It is recommended that the state provide the full implementation of the national programme for the protection of human rights defenders, ensuring gender and ethnical perspectives and the adoption of specific legal framework, budgetary allocation and multidisciplinary teams in all states of the country.*
29. Data provided by civil society organizations indicates that journalists and other communications professionals are in increasing risk of violence. UNESCO, OHCHR and UNIC have approached the government for designing specific policies for the protection of journalists and other communication professionals (119.89). *It is recommended the state acknowledges the vulnerability of journalists and other communication professionals and establishes an observatory of violence, takes effective measures for their protection and for investigation and punishment of perpetrators.*

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<sup>15</sup><http://www.sdh.gov.br/assuntos/bibliotecavirtual/criancas-e-adolescentes/publicacoes-2016/pdfs/relatorio-avaliativo-eca>

30. In 2016, the adoption of an Antiterrorism Law raised concerns on whether it could target regular activities promoted by social movements and civil society organizations, not linked to terrorism.

### **Prohibition of slavery and Human Trafficking**

31. UNODC and the Ministry of Justice have worked together in the implementation of the National Plan to Combat Human Trafficking and to punish perpetrators. Efforts are in place to better coordinate the Plan between federal and state level stakeholders (119.106,119.98,119.99,119.101,119.100).
32. In September 2016, bill 479/2012 was approved by the Senate and awaits Presidential decision to be adopted <sup>16</sup>(119.102).
33. ILO has worked in close partnership with the Brazilian government for combatting forced labour (119.107). Brazil has a relevant legislation and a broad definition of the crime of slavery. However, a draft bill (432/2013) attempts to change this definition, what could be harmful for efforts in place (119.119).
34. Notwithstanding the progress observed in many areas, *the Government should leverage efforts to eradicate child labor and forced labor, to promote Youth Rights and to include vulnerable groups in public policies, such as women, Afro-Brazilians and indigenous groups.*

### **Rights related to name, identity and nationality**

35. The vast majority of children have a birth certificate, due to increased access to birth registration services. UNICEF and UNDP has supported federal government in the formulation and implementation of the policy to increase access to birth registration services. However, only 57.9% of new-born indigenous children are registered in the first year of life. Up until 10 years of age, only 70% of indigenous children are registered, well below the national average<sup>17</sup>, which hinders their access to health, education and welfare services. It further increases their risk to illegal adoption, and consequently trafficking. The Ministry of Justice and Human Rights Secretariat have conducted awareness raising campaigns to increase registration rates. Such efforts need to be strengthened and to be conducted on a regular manner. (119.128,119.129).
36. The Ministry of Health, the Ministry of Education and other governmental institutions adopted ordinances for ensuring respect to gender identity of transgender persons. *It is recommended that the state adopt specific legislation on gender identity, ensuring transgender persons are acknowledged on their chosen names, reflecting their gender identity, and also facilitate access to legal name change procedures, not depending on surgery procedures as well as ensure effective implementation of such measures.*

### **Discrimination against women (119.2,119.45,119.47)**

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<sup>16</sup> See bills 7370/2014, 2845/2003, 6934/2013, 7597/2014.

<sup>17</sup> Census, 2010; ECA25anos

37. The current guidelines to address gender inequality in Brazil are outlined in the National Plan on Policies for Women (Plano Nacional de Políticas para as Mulheres, 2013-2015), which is structured in 10 chapters, reflecting priority areas for the promotion of gender equality: Labor and Economic Autonomy; Education; Health, Sexual and Reproductive Rights; Ending Violence Against Women; Political Participation; Sustainable Development; Land Rights; Culture, Sports, Communication and Media; Ending Racism, Sexism and Lesbophobia; Young, Elderly and Disabled Women. In partnership with the Secretary for Policies for Women (SPM), UNFPA developed and carried out a workshop for State and Municipal Secretariats for Women's staff to enhance their capacity to gather and analyze data and to promote the Women's Health agenda. Moreover, UNFPA, UN Women and PAHO/WHO have been working with the government and civil society organizations to ensure the inclusion of a Women's Rights perspective in the Government's response to the Zika virus outbreak.

### **Gender-based violence (119.91-119.96)**

38. From the definitions established by Law Maria da Penha, the government structured a network to address the issue of violence against women, which includes a hotline (Dial 180). In the first six months of 2015, it registered 364.627 calls and 32.248 reports of violence against women.<sup>18</sup> In the same period, 31% of the cases reported risk of femicide. The adoption of Law 13.104, which defines the crime of femicide, allows murders committed on the basis of gender to be visible and trackable<sup>19</sup>. Data points at 4.8 femicides per 100 thousand women in Brazil. The number of women of African descent murdered increased 54,2% from 2003 to 2013.

39. Brazil has enforced the Law Nº 13.010, 2014, banning corporal punishment of children, with a cultural change focus. Nevertheless, the law has several implementation gaps and suffers great opposition from conservative sectors of society(119.95).

40. The UNCT is also concerned with the high number of rapes and attempted rapes in the country. In 2014, there were 47.643 rapes registered, 5.042 attempted<sup>20</sup>.

41. In March 2013, Brazil launched the programme "Mulher, Viver sem Violência" (Woman – Living Without Violence"), which envisages the construction of 'Casa da Mulher Brasileira' (House of the Brazilian Woman), integrating security, justice, health, social welfare, counseling, shelter, employment and income generation services, in all 27 state capitals. The Federal Government also has promoted partnerships with local authorities and made available mobile units (54 buses and 5 boats) for providing specialized services to women living in rural areas – offering social, psychological, health and legal advice for women experiencing violence. In addition, 7 new centers providing services (counseling, legal assistance and reference to the specialized network) to women are expected to be created until the end of 2016 at strategic points at the country's borders, addressing violence, trafficking of women and migration. The three existent land border centers are expected to receive additional resources and their services provision to be extended in scope.

42. Nonetheless, extending actions to prevent violence and to promote service networks for rural women remains a challenge, since most access to specialized and non-specialized networks may be proven

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<sup>18</sup> Secretaria de Políticas para as Mulheres da Presidência da República. Balanço 1o Semestre 2015. Ligue 180 – Central de Atendimento à Mulher.

<sup>19</sup> Ibidem, pp.04.

<sup>20</sup> Anuário de Segurança Pública (2015).

difficult due to concentration of services in urban areas. Even remote services, such as Dial 180, do not reach all regions of the country. At the same time, calls to Dial 180 – a free hotline covering 70 percent of Brazilian cities – originated from rural area quadrupled from 2013 to 2014, according to official data. UNFPA advocates for the inclusion of obstetric violence as an expression of GBV (there is a bill project on the issue at the House of the Representatives). *It is recommended to broaden the coverage of 180 Hotline and amend legislation for the inclusion of obstetric violence as an expression of GBV.*

### **Children: protection against exploitation**

43. Currently, working children from 5 to 9 year are practically non-existent in Brazil, according to official data. Nevertheless, child labour remains present in the range of 10 to 15 years. Most of the victims are black boys from urban areas, although rates have declined since 1992, especially in the Northeast. It is significant the proportion of girls involved in domestic service. Many are out of school, or school delayed (119.104,119.105,119.109).

### **Right to work and social security**

44. Changes in the Constitution granted Domestic Workers same labor rights of other professional categories, including extended access to social security(119.33).

45. Despite initiatives in place, according to official data (PNAD, 2013<sup>21</sup>), Brazil faces persistent inequalities in the access to employment based on gender and race(119.51). Unemployment rates are higher among people of African descent (7,4%) than in the white population (5,3%), and among women (8,4%) than men (4,8%). In 2014, people of African descent were 53,6% of the Brazilian Population and 76% of those among 10% with lower income<sup>22</sup>. In 2014, women earned 74% of the income earned by men average<sup>23</sup>.

46. *It is recommended the implementation of programmes for reducing gender and racial inequalities at the world of work by both private and public companies.*

### **Right to health**

47. The Stork Network (Rede Cegonha) became the main governmental strategy for reducing maternal mortality. It reorganizes prenatal, birth and child care services (119.146). The program is also addressed to improve the diagnosis of HIV in pregnant women at the first health care level.

48. The National Committee on Maternal Mortality was reactivated, enabling the training of health professionals from eight states with the highest numbers on maternal mortality. Brazilian midwives' struggle to establish their professional field in the area of maternal and child health in the country (midwives continue to claim their social space, seeking to maintain and strengthen the profession, and legislative aspects of practice and regulation of their profession. *It is recommended that the state intensify efforts to fully comply with CEDAW's Committee General Recommendation No. 28 (2011) – which addresses the provision of affordable access for all women to adequate emergency obstetric care and to effective judicial remedies.*

49. (119.151) Between 1990 and 2012, the infant mortality rate fell 68.4% to 14.9 deaths per 1,000 live births, according to the Ministry of Health.

<sup>21</sup> IPEA (2014). Anexo estatístico da população negra. In Políticas Sociais – acompanhamento e análise n.22.

<sup>22</sup> Fonte: Síntese de indicadores 2015/IBGE.

<sup>23</sup> Fonte: Síntese de indicadores 2015/IBGE.

50. (119.148) Brazil achieved most MDG health indicators. In spite of having one of the biggest and most comprehensive health systems in the world, inequalities prevent vulnerable populations from effective access to health care and prevention. Data shows that women of African descent receive poorer health care in comparison with white women<sup>24</sup>. They are also the majority of victims of maternal mortality. *UNCT recommends the adoption of training of health professionals, communication campaigns to tackle institutional racism by the health sector.*
51. (119.152) One of the great achievements of the last 10 years is the successful control of vertical transmission of HIV. The latest bulletin on epidemiological data of the Ministry of Health (2014), indicated that halved the number of AIDS cases through vertical transmission in children under 5 years between 1995 and 2013, when 374 cases were recorded. Today, the most serious effects of the AIDS epidemic in Brazil fall on adolescents. Worldwide, a third of new infections occur in young people aged 15 to 24 years and boys are the most affected. In Brazil, between 2004 and 2013, the number of new cases in boys aged 15 to 19 increased 53%.<sup>25</sup> *UNCT recommends the adoption of HIV/AIDS strategies addressed to adolescents, including prevention at schools, empowerment initiatives and communication campaigns.*
52. The Zika virus outbreak has challenged the government to promote prevention strategies, ensuring sexual and reproductive health, and to support people infected as well as mothers and families of babies born with. It has mainly affected the poorest. *The UNCT recommends the government adopt a comprehensive strategy for preventing the spread of Zika epidemic, including the improvement of water and sanitation conditions, of universal access to sexual and reproductive health, of access to family planning and to timely and of quality maternity and pre-natal care, and providing health care and social benefits for those affected by the Zika virus congenital syndrome.*

### Right to education

53. Primary education is free of charge, provided by the government, and public policies are in place for ensuring education for all. It includes the distribution of books and the provision of transportation. From 1990 to 2014, the number of children who were not attending school decreased from 19,6% to 6,9% (3 million children). Inequalities still prevent most vulnerable populations, such as people of African descent, indigenous peoples, transgender people and rural areas communities, from accessing those policies (119.157;119.158;119.159;119.160).
54. A recently published census<sup>26</sup> illustrated the main challenges in the access to education, especially for children. One of the main challenges is the inclusion of children of 4 and 5 years old and adolescents aged 15 to 17 years. In 2013, almost 700 000 children between 4 and 5 years were still out of school because preschools are insufficient current to meet the demand<sup>27</sup>. In the case of adolescents aged 15 to 17 years, Brazil has advanced in relation to the number of children registered at high school: from 5.4 million registered in 1995, the number raised to 7.8 million in 2014<sup>28</sup>.
55. Affirmative actions have been successfully implemented, but the UNCT is deeply concerned with persistent racial inequalities at the educational system. In 2014, 82,9% of White students completed the primary school at the age of 16, while only 66,6% of people of African did it (PNAD).

<sup>24</sup> Fonte: Pesquisa Nacional de Demografia e Saúde (PNDS) 2006.

<sup>25</sup> ECA25anos.

<sup>26</sup> IDEB, 2015.

<sup>27</sup> PNAD, 2013.

<sup>28</sup> ECA 25anos, UNICEF

56. Although the illiteracy rate dropped, *it is recommended that Brazil promote educational opportunities for children and adults, according with international standards and commitments established also in the Declaration of Incheon<sup>29</sup> and Beijing Declaration.*
57. The UNCT is also concerned that the withdrawal of gender mainstreaming approaches in education, sought by several municipal and state governments, will impact negatively the country's efforts to mitigate GBV and to meet the targets set by the 2030 Agenda for sustainable Development (119.161). Also, as the Durban Programme of Action recognizes the need to adopt special measures and positive actions for the victims of racism and racial discrimination, including measures to achieve appropriate representation in educational institutions, *the UNCT reaffirms the importance of implementing affirmative actions for Afro-Brazilians in higher education.*

**Racial discrimination** (119.49,119.50,119.138,119.162,119.31)

58. The Plurianual Plan of the Brazilian Government (2016-2019)<sup>30</sup>, approved in 2015, enshrined as a principle the reduction of social and regional inequalities and to raise the social participation. Official data (IPEA) points at advances and remaining challenges in tackling inequalities among women and men, white people and people of African descent<sup>31</sup>. 88,1% of white population houses in urban areas have sanitation structure while that is true to only 77,7% of the houses of people of African. The illiteracy rate is 5,2% for White people and 11,5% for people of African descent.
59. In 2012, 91,6% of the victims of murder were male, while 93,3% of them were young. While the rate of homicides per 100,000 people for white people dropped from 21,7 to 16,4, among people of African descent it increased from 37,5 to 40,4. In 2012, the deaths of people of African descent are 146,5% higher than the deaths of white people. The UNCT is concerned with the impact of lethal violence perpetrated against young men of African descent, which affects also women of African descent – mothers, daughters, sisters and partners of those killed.

**Rights of Indigenous peoples** (119.31-32,119.38,119.50, 119.144,119.158,119.163-169)

60. Brazil has a population of 890,000 indigenous people, organized in 305 tribes, living in 13.3% of the Brazilian territory. Despite the fact that the Brazilian Constitution recognizes the original right of indigenous peoples to their lands, the constitutional provisions are insufficiently observed. Conflicts have arisen from the long process of demarcation of lands. As pointed out by the SR on the Rights of Indigenous Peoples in recent mission to Brazil<sup>32</sup>, the approval of the constitutional amendment Project nº 215/2000 (PEC 215) would undermine the land demarcation and rights protection framework.
61. In June 2016, the governmental body in charge of the protection of indigenous peoples (FUNAI) suffered an aggressive budget cut, which is the lowest in 10 years. As of date, FUNAI is operating at less than 40% of its capacity.
62. Indigenous leaders have expressed the need to ensure the full implementation of ILO's 169 Convention, particularly in making sure their voices are heard regarding mega projects and development initiatives that might affect their communities and territories. They also expressed that mitigation and compensatory

<sup>29</sup> UNESCO. Educação 2030: rumo a uma educação de qualidade inclusiva e equitativa e à educação ao longo da vida para todos, Available at <http://unesdoc.unesco.org/images/0023/002331/233137POR.pdf>

<sup>30</sup> <http://www.planejamento.gov.br/secretarias/upload/arquivo/spi-1/ppa-2016-2019/ppa-2016-2019-ascm-3.pdf>

<sup>31</sup> IPEA (2014). Anexo estatístico da população negra. In Políticas Sociais – acompanhamento e análise (IPEA) n. 22.

<sup>32</sup> [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/33/42/Add.1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/33/42/Add.1)

measures for the most part are not observed or implemented by companies and businesses affecting their original lands.

63. Today, the main victims of child mortality are indigenous children. They are twice as likely to die before completing one year, many of those of preventable causes. Child malnutrition is associated with the main causes of these deaths: diarrhea, respiratory infections and malaria. Among indigenous children living in the North, the percentage of chronic malnutrition reaches 40%, while the prevalence in the country is on average of 7%<sup>33</sup>.
64. Violations of indigenous peoples' rights are frequent, and lands disputes have been aggravating the situation. The UNCT received information of indigenous people in Mato Grosso, Mato Grosso do Sul, Bahia, Pernambuco and Pará who have been victims of aggressions by farmers and other business, including the invasion of their territories, threats, rape, murders and assaults. This violence generates additional burden to indigenous women. Indigenous leaders have been systematically persecuted and criminalized. Similar facts have been reported elsewhere in Brazil. *The UNCT is concerned with the violence against indigenous peoples and recommends the implementation of timely investigation as well as preventive actions.*
65. *The UNCT recommends the full implementation of the recommendations of the SR on the Rights of Indigenous Peoples.*

#### **Data (119.25)**

66. Brazil has strong monitoring and data systems, with a regular statistics and survey agenda. The areas of education and health, in particular, have made sound progress in the past ten years, with the implementation of high-quality household surveys, censuses and on-line databases. However, the country still faces many data challenges, especially in regard to vulnerable populations, such as indigenous children and adolescents, quilombolas, people living with HIV, persons with disabilities and LGBTI people. There is a systematic lack of quality and of transparency of data for these groups. Another area that needs consistent investment is in relation to the interconnection of data systems particularly in relation to violence, where data are disperse over different systems, often unreliable and underreported.
67. Disaggregated data on children with disabilities does not exist to monitor their access to services as well as their vulnerability to violence, neglect, abuse and discrimination, especially those coming from indigenous, riverine and quilombola communities. However, the limited data available shows that Brazil faces challenges to ensure social inclusion and access to health, education and other human rights for children with disabilities.
68. The UNCT acknowledges the work undertaken by IBGE and *recommends the adoption of human rights indicators and the inclusion of disaggregated information regarding people living with HIV, LGBTI, persons with disabilities, indigenous children and adolescent among other relevant populations.*

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<sup>33</sup> ECA 25 anos