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HUMAN RIGHTS COMMITTEE

Eighty-fifth session

SUMMARY RECORD OF THE 2325th MEETING*

Held at the Palais Wilson, Geneva,
on Wednesday, 26 October 2005, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. SOLARI YRIGOYEN
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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* No summary record was issued for the 2324th meeting.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (agenda item 6)
(continued)

Second periodic report of Brazil (CCPR/C/BRA/2004/2; CCPR/C/85/L/BRA)

1. At the invitation of the Chairperson, the members of the delegation of Brazil took places at the Committee table.
2. Mr. MAMEDE (Brazil), introducing the second periodic report of Brazil (CCPR/C/BRA/2004/2), said it covered the period 1994 to 2004, and focused on measures taken in response to the Committee's observations on Brazil's initial report. The report had been prepared by an independent consultant and input from non-governmental sectors had been taken into account.
3. The progress made in terms of institutional capacity-building and public policy-making, together with continuing progress towards ratification of the two optional protocols to the Covenant, demonstrated his Government's commitment to the promotion and protection of human rights, in cooperation with international human rights bodies. In line with that commitment, the Committee's concluding observations would be distributed to the government institutions concerned and published on the website of the Secretariat for Human Rights.
4. One of the main challenges to the implementation of human rights standards was Brazil's federal structure and the difficulties involved in coordinating action at the various levels of government; in order to address that problem, legal provisions had been adopted to codify a grave violation of human rights as a federal offence. Efforts to strengthen the promotion and protection of human rights included the fourfold increase in budget allocations for the Secretariat for Human Rights between 2000 and 2004, and the establishment of the Special Secretariat for the Promotion of Racial Equality and the Special Secretariat for Women's Policies, which were mandated to raise awareness and ensure the inclusion of a human rights perspective in public policy-making.
5. In October 2003, the Government had launched a nationwide campaign to increase birth registration; as a result, the proportion of registered children had risen by some 3 per cent, and efforts to further promote registration were continuing. At the same time, a programme aimed at ensuring the civil registration of members of the poorest segments of society had been launched in the framework of the Zero Hunger initiative to ensure that public policies benefited previously marginalized groups.
6. Also in 2003, a national human rights education plan had been launched to develop collective awareness and create a culture of human rights, with emphasis on fostering community leadership and social movements and on the training of human rights educators and managers. Two million copies of the Child and Adolescent Statute had been distributed

throughout the country and, in 2005, the Declaration of the Rights of the Child would be incorporated in 130 million textbooks. Between 1994 and 2004, over 1 billion textbooks had been distributed to some 30 million pupils in over 170 schools. A project to analyse media coverage of human rights had been undertaken in the context of ongoing efforts to raise media awareness of human rights. The Special Secretary for Human Rights had set up "Legal Desks", which provided, inter alia, legal advice and basic civil documentation to vulnerable and low-income communities.

7. A national policy for older persons had been adopted to combat ill-treatment of that social group. Over 4,000 professionals working with older persons had been trained in human rights and the 2003 Statute on the Elderly provided for special protection measures. In December 2004, the President had approved a decree promoting access for persons with disabilities or limited mobility to transport, communication, information and technical assistance; 25 million Brazilians were expected to benefit from the relevant measures. Furthermore, the federal Government had facilitated the establishment of state and municipal councils on the rights of persons with special needs and older persons.

8. In May 2004, the Brazil without homophobia programme had been launched to combat violence and discrimination based on sexual orientation and to promote the rights of homosexuals; the programme had been formulated with the participation of relevant ministries and representatives of all social sectors. In the framework of the Afro-Attitude programme, affirmative action measures had been introduced to facilitate university access for Afro-Brazilian students including through scholarships. Seventeen Brazilian universities had introduced a quota system for students of African descent and the number of such students entering the University of Brasilia had increased more than tenfold in the past two years.

9. In partnership with ILO, numerous initiatives had been launched to eradicate forced labour. Over 500 complaints of forced labour and 135 collective suits were currently before the public prosecution service. In 2003, the Government had launched the National Plan for the Eradication of Slave Labour; the National Commission on that question, composed of representatives of the federal Government, the public prosecution service, NGOs and international organizations, had been established to monitor implementation of the plan. In addition, the Government had published a so-called "dirty list" of companies and individuals found guilty of employing slave labour in order to block public financing for the companies concerned. Large-scale inspections of farms between 1995 and 2005 had led to the freeing of almost 17,000 persons working in slavery-like conditions, many of whom had been awarded compensation.

10. Measures to address the shortcomings in the prison system included the refurbishment of existing facilities and the construction of new facilities to reduce overcrowding; the construction of five maximum security units to house dangerous prisoners; improved access to health care for prisoners; the introduction of shorter prison sentences; better legal aid; increased recourse to alternative sentences to reduce the prison population; and the recent adoption of a literacy and education programme for young and adult offenders in detention.

11. A system had been implemented to coordinate federal and municipal action in the field of security and criminal justice. Measures taken to enhance law and order included the training of

state and municipal guards; the formulation of police training curricula; the establishment of police academies; and education and awareness programmes on public safety. Special resources had been allocated for the refurbishment of public safety institutions, the establishment of DNA crime laboratories, and the creation of a forensic entomology laboratory.

12. With the support of the European Union, Police Ombudsman offices had been set up to promote human rights awareness among law enforcement officials and reduce police violence. At present no system was in place to record deaths through police action. In order to facilitate reliable data collection, a nationwide programme had been launched in 2003 to ensure the systematic recording of all such cases; it was expected to be fully operational by the end of 2005. Measures had also been taken to strengthen the Police Ombudsman offices and to train police officers in human rights with a view to preventing and combating torture and police violence. The Government was currently formulating a national plan to combat torture, with the participation of civil society.

13. The adoption in 2004 of the Disarmament Statute imposing restrictions on the registration, ownership and sale of firearms and ammunition was another important step towards enhancing public safety. Although in a referendum three days before the Brazilian people had rejected a nationwide ban on the sale of firearms and ammunition, the Government was continuing its efforts to promote such a ban.

14. Assistance to vulnerable children and young persons and the fight against the sexual exploitation of minors were government priorities. The Child Labour Eradication Programme targeted families with children under 16 who had previously been involved in child labour. The Family Grant Programme consolidated a series of social programmes, eligibility for which included 85 per cent school attendance by the children of beneficiary families. As a result, attendance rates had more than tripled between 2002 and 2005.

15. Efforts to promote gender equality were reflected in the adoption of the National Plan for Women's Policies 2004-2007. In July 2004, the Government, in cooperation with the Special Secretariat for Women's Policies, had hosted the first national conference on women's policies. Over 120,000 women from different parts of the country had participated in the conference to draw up guidelines for gender-sensitive policy-making based on respect for racial and ethnic diversity.

16. A greater proportion of girls than boys attended school, and more girls went on to higher education. There was no gender discrimination in education policy or practice. The Government had taken steps to promote gender and racial equality in the workplace. The Special Secretariat for Women's Policies and the Special Secretariat for the Promotion of Racial Equality coordinated inter-ministerial efforts to combat discrimination. An equal opportunities programme implemented by the Ministry of Labour and Employment had focused on ensuring that employers respected women's rights, particularly during pregnancy and after maternity leave.

17. Article 231 of the Constitution recognized indigenous peoples' customs, languages, beliefs, traditions and right to lands they had traditionally occupied. About 12 per cent of the

national territory had been declared indigenous land, thus guaranteeing the inhabitants the exclusive right to use the natural resources there. Thanks to the success of the Government's efforts, the number of conflicts over land rights had fallen significantly between 2003 and 2005.

18. Mr. VILLARES E SILVA (Brazil), replying to question 1 of the list of issues, said that educational policies for indigenous peoples ensured respect for their cultures and societies, and promoted the learning of indigenous languages. Those policies were administered through partnerships between the federal, state and municipal governments. There were over 2,000 indigenous schools in Brazil and the policies were implemented in cooperation with the indigenous communities. While difficulties had been encountered in implementing those policies and health policies for indigenous communities, progress had been made. The Government consulted indigenous populations on land use, in accordance with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. Indigenous communities had the right to veto the use of resources on their lands, and the exploitation of water and mineral resources was permitted on the authority of the National Congress only after consultation with the relevant communities. Illegal exploitation of those resources by non-indigenous peoples was combated by several State bodies. All use of natural resources by indigenous peoples was regulated, and the ethnic and environmental impact of such activity measured and alleviated where possible, in consultation with indigenous communities.

19. Mr. dos SANTOS HENRIQUES (Brazil) added that measures were being taken to monitor and improve the quality of education for indigenous peoples and to train more indigenous teachers.

20. Mr. MAMEDE (Brazil), in response to question 2, said that no data were currently available on the number of Legal Desks that had been established in low-income communities.

21. Ms. WIECKO VOLKMER de CASTILHO (Brazil) said that the Legal Desks had given many people in remote areas access to justice. Measures had been taken to address the lack of public attorneys and to increase access to the legal defence system in rural areas. A monitoring system was to be established to follow up the recommendations of the Inter-American Human Rights Commission. Systems would also be developed to collect data on various criminal offences and sentences. A national human rights group would be established to provide an integrated justice training system, in cooperation with international organizations. Plans were also under way to establish specialized human rights offices and thereby ensure respect for regional and international agreements ratified by the Government.

22. Mr. MAMEDE (Brazil), replying to question 3, said that efforts to raise public awareness of the Covenant were continuing, and all municipalities would appoint human rights secretariats in due course. Some municipalities had local human rights plans and had made efforts to integrate human rights into all their policies. Human rights conferences were held at state level every two years.

23. Turning to question 4, he said that an "amnesty commission" had judged about 16,000 cases to date. Since no deadline for compensation had been set, many more cases would be considered, including the outstanding 33 requests for damages currently before that commission. The Special Commission for Disappeared and Dead

Political Dissidents should end its work in 2005. A meeting with other MERCOSUR countries had been held to develop a single “truth and memory framework” which would enable progress made in each country to benefit other countries. The establishment of a “museum of memory”, based on oral testimony and recording events under the military dictatorship, was under consideration.

24. Mr. Solari Yrigoyen (Vice-Chairperson) took the Chair.

25. Ms. ADORNO (Brazil) said that although the adoption of the Quotas Act had been an important step in increasing women’s participation in public life at all levels, the target of 30 per cent female representation in politics had not yet been met. Between 1992 and 2002, the proportion of female electoral candidates had increased from 7 to 14 per cent. Since the law did not provide for a system of enforcing the target quotas, a further law was being drafted to oblige political parties to raise awareness of the importance of female participation. Although progress had been made, there were still very few women in senior positions in decision-making bodies. Draft laws on quotas for female representation in the higher courts and civil service were currently being discussed.

26. Mr. BALESTRERI (Brazil), responding to the Committee’s questions on domestic violence, said that the lack of data on domestic violence was a result of a long-standing lack of communication on the subject, which was compounded by the fact that law enforcement officials were not adequately trained to recognize cases of domestic violence. The National Secretariat of Public Security had established a national research project to track down victims of domestic violence, in cooperation with international organizations. Considerable investment would be required to ensure that the project was successful. Until the project was fully in place, the Government was using police data on violations of women’s rights to analyse the situation. The Government’s efforts had resulted in an increase in the number of cases of domestic violence reported to the police. Training in issues relating to domestic violence was being provided for law enforcement officials, specialized centres for female victims were being established, and 60 specialists had been trained in women’s issues. The Government hoped that its efforts would result in an increase in the recording of cases of domestic violence.

27. Ms. WIECKO VOLKMER de CASTILHO (Brazil) said that the amount of data available on domestic violence was increasing. The executive branch of the Government had drafted a bill based on a proposal from civil society organizations relating to the establishment of a civil court and a criminal court specializing in women’s issues. That bill, had been approved by the National Public Security Bureau and was due to be considered by the other government departments concerned by November 2005. A new bill on domestic violence was also being drafted; it contained a definition of domestic violence that was in line with that contained in the relevant international treaties.

28. Ms. ADORNO (Brazil) said that women’s shelters had been established for victims of domestic violence and their families to ensure that they received the necessary psychological support. Efforts were also being made to ensure that the public authorities referred victims to such shelters.

29. Mr. PAIXÃO PARDO (Brazil), responding to question 7, said that Brazil had ratified all the international human rights treaties and ILO conventions pertaining to discrimination in the workplace. Over the past 10 years, a programme had been implemented, with participation by employers' and workers' organizations from all sectors, to promote equal opportunities and combat discrimination. Gender-based discrimination and racial discrimination were being addressed jointly in order to combat and eventually eliminate double discrimination. The federal Government had established a tripartite commission to promote access to employment for particularly vulnerable groups. Workers' representatives and NGOs were involved in all discussions on eliminating discrimination in the workplace.

30. Ms. de MOURA SOUZA (Brazil) said that the Labour Prosecution Service operated independently of the Government in order to fully safeguard all human rights. It was actively endeavouring to combat all types of discrimination in the workplace, and to promote the principle of equal pay for work of equal value. The Service made efforts to obtain compensation for workers who had been victims of discrimination.

31. Mr. MARTINS de SOUZA (Brazil), responding to question 8, said that the federal Government's discussions on the elimination of racial discrimination had begun in 2003. Affirmative action was being taken and policies had been developed to promote equality at all levels. Equality in public administration was based on two principles: horizontality, to ensure that all government ministries incorporated the principle of equality in their activities; and decentralization, to ensure that policies on equality were pursued in a combined effort with municipal and local authorities. Although racial equality was not expressly addressed in the Brazilian legal system or the Constitution, it was implicit in their provisions. Efforts were being made to ensure the enforcement of legislation on the promotion of racial equality, and particularly to ensure that persons of African descent had full access to the education system. The Government attached particular importance to the participation of civil society in the development and implementation of its policies. A national conference on racial equality had been held in July 2005 and had resulted in the drafting of a national plan for the promotion of racial equality.

32. Efforts were also being made at the international level, and Brazil had called for a proposal for the recognition of people of African descent in the Americas. It was coordinating the efforts of a group that had been established to draft a report on the situation of people of African descent for submission to the Inter-American Commission on Human Rights.

33. Ms. Chanet (Chairperson) resumed the Chair.

34. Mr. dos SANTOS HENRIQUES (Brazil) said that a national secretariat had been established to address the issue of education and promote literacy. The Government recognized the importance of promoting diversity as a means of reducing inequality. A proposal for the reform of university education was currently before Congress and, if approved, would oblige universities to reserve 50 per cent of places for students from State schools. Afro-Brazilian students would be guaranteed a proportion of those places, relative to the proportion of

Afro-Brazilians in the local population. The University for All programme had been developed to promote access to higher education. The Government was currently funding 19 pre-university education centres for Afro-Brazilians. Tutors had been trained to address the specific needs of Afro-Brazilians in State schools in order to improve their schooling and access to higher education. National legislation provided that education on Afro-ethnic culture must be provided for all children at the primary level, and efforts were being made to include African culture and history in teacher-training programmes. Training in African cultural issues was also provided for tutors involved in distance-learning programmes. Budget allocations had been made for research with a view to drafting curriculum modules on African culture and history.

35. Mr. MAMEDE (Brazil), responding to question 9, said that the Brazil without Homophobia programme had been launched by the previous Government and had been promoted by civil society. The programme had gained heightened importance under the new Government. Political action was being taken to promote tolerance and eliminate discrimination on grounds of sexual orientation, notably through the work of several ministries, including the Ministries of Health, Culture and Justice. Efforts were being made to protect male and female homosexuals and transsexuals against violence, and to raise public awareness of the importance of eliminating discrimination on grounds of sexual orientation.

36. Mr. JOHNSON LOPEZ welcomed the detailed information provided by the delegation, and congratulated the Government on the open-mindedness it had displayed and on the many steps it had taken to meet its obligations under the Covenant. He asked what practical forms of consultation the Government had used in order to learn what the indigenous peoples needed and how they viewed the measures that had been adopted. He wished to know whether separate consultations were held with each community or whether consultations were of a more general nature.

37. Mr. O'FLAHERTY said with reference to question 2 of the list of issues that a key issue was the capacity of the judicial system to provide legal remedies, given that one third of the lower courts of Brazil had no judge and that the caseloads of judges in São Paulo State were impossibly onerous. In that context, he wished to know what the Government intended to do to encourage broader participation in the judiciary of women, members of the indigenous population and Afro-Brazilians. The extremely low rate of prosecution of homicides was attributable to poor access to the judicial system. Although he welcomed the information on the establishment of Legal Desks and the itinerant court system, it seemed unlikely that such measures could be sufficient to remotely address the scale of the problems facing Brazil in providing access to legal remedies. He therefore asked whether any measures had been taken to speed up legal proceedings, to impose penalties for unjustified delays and to reform the criminal investigation procedure. The federalization of the consideration of human rights cases was to be applauded. However, he wished to hear the delegation's assessment of the capacity of the Prosecutor-General to identify relevant cases at the local level and wished to know what criteria the Prosecutor-General would use to determine that a case should be federalized. He asked whether the Government had considered developing standardized and objective criteria that would trigger the federalization of a human rights-related case.

38. Turning to question 3, he asked the delegation to respond to information that the 2006 budget of the Secretariat for Human Rights had not increased as the delegation had reported, but had in fact been reduced by 50 per cent in relation to 2005. He asked for clarification of the practice of “ring-fencing”, whereby the Finance Ministry held back a significant part of the Secretariat’s budget.
39. The Committee fully respected Brazil’s sovereign decision regarding the appropriateness of establishing a truth and reconciliation commission. However, he wished to know why the Government had not yet released secret military documents for the period 1964 to 1984, and why material was being withheld under Presidential Decree No. 4,553, since the information contained in that material went to the heart of transitional justice.
40. He welcomed the valuable information provided in the delegation’s written replies on the situation of the Afro-Brazilian community (question 8). Information made available to the Committee suggested that Brazil had serious problems with violence against Afro-Brazilians; he therefore wished to know what specific initiatives the Government had taken to address violence against that community, and especially its younger members.
41. The Brazil without Homophobia programme was exemplary and the Government was to be applauded for its leadership on the issue. However, he was concerned that the incidence of homophobia was significantly higher in the northern regions than in the south; he suggested that particular attention should be paid to the eradication of homophobia in the Federal District and the states of Amazonas and Pernambuco.
42. Mr. KHALIL expressed appreciation for the extensive information provided by the delegation in its written reply to question 5; to enforce the quota system by imposing sanctions on political parties that failed to meet minimum quotas for women’s participation was an innovative measure. However, he noted that the increase in the participation of women in politics had been only slight. He welcomed the measures taken to raise women’s awareness of the importance of their participation in politics.
43. He regretted the lack of detailed information regarding violence against women (question 6). He expressed surprise that sufficient resources were not invested in action to combat the problem of domestic violence, given the Government’s acknowledgement that the issue was an urgent one, but welcomed the presentation to Congress of a bill on domestic violence. He hoped that that bill would be adopted in the near future. He asked whether an edict that had established mandatory notification by the Ministry of Health of cases involving violence against women had resulted in any increase in the number of reported cases and requested further information about police training on domestic violence.
44. As to question 7, he noted the programme being implemented by the Ministry of Labour to protect women at work and expressed the hope that the independent Labour Prosecution Service would ensure that discriminatory behaviour was curbed.
45. Both the periodic report and the written replies gave the impression that, although a great deal of progress had been made since Brazil had submitted its initial report, much of that progress had been in establishing institutions or holding conferences. While such measures went in the right direction, they did not go far enough to remedy the problems.

46. Mr. GLÈLÈ AHANHANZO asked the delegation to provide information about the phenomenon of women being sterilized in order to ensure that they could find employment and to maintain a demographic balance; he wished to know the scale of the problem and what the Government was doing to eradicate it. He also asked why no information had been provided on the Roma populations of Brazil, who were said to experience problems such as difficulty in registering births. He asked why those minorities should feel marginalized, given that Brazil was a multicultural society.
47. Sir Nigel RODLEY asked how far the process of federalizing human rights crimes had progressed and requested specific information about the background to a case that had been submitted by the federal authorities but had been rejected by the Superior Court of Justice on the grounds that it had been premature to bring the case. He asked whether it was true that in an earlier case under the Presidential Decree of 2002 the federal police had challenged their orders to provide protection in human rights cases and, if so, by what authority they had been able to do so.
48. The CHAIRPERSON invited the delegation to respond to questions 10 to 15 of the list of issues.
49. Mr. VILLARES E SILVA (Brazil), replying to question 10, said that the legal capacity of an indigenous person was considered to be equal to that of other Brazilian citizens, and was regulated by the Indigenous Persons Statute (Law No. 6,001/73) and the Constitution. The legal institution of guardianship, which dated from 1973, was an attempt to provide protection to indigenous peoples by allowing the State to intervene to protect indigenous rights where there was a clear violation of the collective rights of indigenous persons.
50. As to question 11, which concerned forced evictions of indigenous populations, he said that article 231 of the Constitution expressly banned the removal of indigenous groups from their lands. However, evictions did sometimes occur when properties identified during the administrative procedure of demarcation of indigenous lands, which had until then been considered to be private property, were reclaimed by indigenous peoples before the conclusion of the procedure; the judiciary then sometimes responded to applications by non-indigenous persons who had occupied the demarcated area by issuing recovery orders until the demarcation could be confirmed. The Brazilian State had two agencies responsible for the judicial defence of indigenous rights: the Office of the Federal Attorney of the National Foundation for Indigenous Peoples, which was competent to defend the interests of the indigenous peoples in all proceedings that involved indigenous land disputes, and the federal public prosecution service.
51. Mr. BALESTRERI (Brazil) said that questions 12 and 15 of the list of issues were closely linked. In the past, the police had been among the main perpetrators of human rights violations in Brazil. His Government was determined to change that situation, and a veritable cultural revolution had taken place within the police, who were being encouraged to forsake the repressive attitudes of the past and assume a protective role. That placed them at the forefront of efforts to ensure respect for human rights. Human rights classes formed part of the formal training of all police officers, who were taught not only that they must respect the laws on human

rights, but also that they should work to promote them. A national curriculum focusing on human rights issues was used in training on police violence, which aimed to re-educate older police officers and train new ones; he offered to provide the Committee with a copy of that curriculum. His Government firmly believed that a police force needed good training to be effective, and was therefore investing heavily in police academies in order to ensure that the police became active proponents of human rights. He also wished to draw attention to the National Public Security Specialization Network, which was assisting higher education institutions in providing specialized courses for public security personnel; the content of those courses was subject to the approval of the National Human Rights Education Committee within the Secretariat for Human Rights. Distance-learning programmes had also been set up. A number of methods were being used in order to instil a culture of human rights, including a television programme on human rights issues that would be broadcast nationwide. He was confident that the vast majority of police officers would be reached by the campaign, and that the police would in future be at the forefront of the protection of human rights in Brazil.

The meeting rose at 6 p.m.