



**Convention on the
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Initial reports of States parties due in 1992

BRAZIL

[27 October 2003]

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Abbreviations		5
Introduction	1 - 20	7
I. GENERAL MEASURES OF APPLICATION	21 - 84	10
A. Measures adopted to reconcile Brazilian legislation with the provisions of the Convention	21 - 47	10
B. Existing mechanisms (national and local) for coordinating the policies related to children and supervising the application of the Convention	48 - 75	15
C. Child budget and federal Government expenditure on the policy of enforcing the rights of the child and adolescent	76 - 84	22
II. DEFINITION OF THE CHILD	85 - 89	26
III. GENERAL PRINCIPLES	90 - 134	28
A. Non-discrimination	90 - 117	28
B. The higher interest of the child	118 - 120	34
C. Rights to life, survival and development	121 - 129	35
D. Respect for the child's opinion	130 - 134	36
IV. CIVIL RIGHTS AND LIBERTIES	135 - 189	37
A. Name and nationality	135 - 137	37
B. Preservation of identity	138 - 149	37
C. Freedom of expression	150 - 153	39
D. Freedom of thought, conscience and religion	154 - 160	40
E. Freedom of association and holding peaceful meetings	161 - 167	40

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
F. Protection of private life	168 - 172	41
G. Access to relevant information	173 - 177	42
H. The right not to be submitted to torture or other cruel, inhuman or degrading treatment or punishment	178 - 189	43
V. FAMILY ENVIRONMENT AND OTHER TYPES OF GUARDIANSHIP	190 - 277	45
A. Direction and orientation of parents	190 - 203	45
B. Responsibilities of the parents	204 - 207	49
C. Separation of the parents	208 - 214	50
D. Family union	215 - 216	50
E. Illegal travel and illegal retention	217 - 227	51
F. Payment of food support	228 - 234	52
G. Children deprived of family environment	235 - 246	53
H. Adoption	247 - 262	55
I. Periodic examination of internment conditions	263 - 266	58
J. Abuse and neglect, psychological recuperation and social integration	267 - 277	58
VI. BASIC HEALTH AND WELL-BEING	278 - 426	60
A. Children with special needs	278 - 292	60
B. Health and health-care services	293 - 399	64
C. Social security and services and children's shelters	400 - 415	84
D. Standard of living	416 - 426	87

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
VII. EDUCATION, RECREATION AND CULTURAL ACTIVITIES	427 - 555	89
A. Education incorporated into professional training and guidance	427 - 529	89
B. The objectives of education	530 - 544	109
C. Rest, leisure and cultural activities	545 - 555	112
VIII. SPECIAL PROTECTIVE MEASURES	556 - 709	114
A. Children in exceptional situations	556 - 567	114
B. Adolescent offenders	568 - 591	116
C. Children submitted to exploitation, including their physical and psychological recovery and their social re-integration	592 - 670	124
D. Children belonging to minorities or to indigenous groups	671 - 710	137

ANNEXES*

* Annexes can be consulted in the files of the secretariat.

Abbreviations

ASAJ	Adolescent and Youth Health Area
BPC	Continued Benefits Provision
CBIA	Brazilian Centre for Childhood and Adolescence
CONAETI	National Commission on the Eradication of Child Labour
CONANDA	National Council for the Rights of Children and Adolescents
CRIE	Special Immunobiological Reference Centres
ECA	Statute of the Child and Adolescent
ENEM	National Secondary Education Exam
FONACRIAD	National Forum of Government Directors of Executive Agencies for the Policy of Enforcement of the Rights of the Child and Adolescent
FUNAI	National Indian Foundation
FUNABEM	National Foundation for Child Welfare
FUNDEF	Primary Education Maintenance and Development and Teacher Appreciation Fund
GDP	Gross domestic product
GSF	Federal social expenditure
HDI	Human Development Index
HIV/AIDS	Human immunodeficiency virus/acquired immune deficiency syndrome
IBGE	Brazilian Institute for Geography and Statistics
ICCN	Incentive Programme for Combating Nutritional Deprivation
INEP	National Institute for Educational Studies and Research
INSS	National Social Security Institute
IPEA	Institute of Applied Economic Research
IPEC	International Programme on the Elimination of Child Labour, ILO

Abbreviations (*continued*)

LDB	Law on Educational Directives and Bases
NGO	Non-governmental organization
PAB	Minimum Healthcare Allocation
PCN	National Curricular Parameters
PETI	Programme to Eliminate Child Labour
PNAD	National Household Sample Survey
PNI	National Immunization Programme
PNIAM	National Maternal Breastfeeding Incentive Programme
PRONAGER	National Programme to Generate Employment and Income
PSF	Family Health Programme
RDA	Recommended daily allowance
SAEB	National Basic Education Evaluation System
SEAS	State Secretariat of Social Assistance
STD	Sexually transmitted disease
SUS	Single Health System
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

Introduction

1. In compliance with the provisions of article 44, paragraph 1, of the Convention on the Rights of the Child, the Government of Brazil is submitting to the Committee on the Rights of the Child the present consolidated report incorporating the initial report and the first two periodic reports provided for in the Convention. The present document covers the period from 1991 to 2002.
2. In updating the obligations arising from the signing of the Convention, the Government of Brazil would like to thank the Committee for allowing the reports due up until last year to be consolidated. The present consolidated report seeks to present faithfully the efforts undertaken at the domestic level to implement measures for defending, promoting and protecting children's rights, as well as the deficiencies still existing in this area and the difficulties encountered in rectifying them.
3. The agendas of the Government and of society in terms of children's and adolescents' rights coincide perfectly. Brazil has very advanced legislation in this respect, in the form of the Statute of the Child and Adolescent (ECA), a juridical instrument which transposes to the national plane the rights set forth in the Convention on the Rights of the Child and provides for the adoption of mechanisms and supplies guidelines so that public policies can be geared to promoting such rights.
4. The process of disseminating the rights established by the Convention was associated with the process of elaborating and publicizing the Statute of the Child and Adolescent. The social mobilization behind the passing of the statute constituted a factor of the greatest importance in ensuring that children's rights received the dissemination that they deserve.
5. The ECA statute has been printed and distributed both by Government agencies and representatives of civil society, and has been widely circulated in schools and community centres.
6. The elaboration of reports for the committees created by United Nations conventions is a highly complex task. In the Brazilian case, the geographical scale of the country, the diverse characteristics of the different regions and the federal political-administrative structure are of particular importance, in addition to the characteristics of the interrelatedness of children's and adolescents' rights.
7. The format adopted for elaborating the present report sought to follow the guidelines of the United Nations committee system in terms of the participation of civil society. During five months, meetings were held with representatives of different Government spheres and non-governmental organizations, to collect the necessary data. A drafting committee was formed, with each of its members being given the task of elaborating the sections related to their specific areas of competence.
8. The Ministry of Foreign Relations was responsible for coordinating the work of the Drafting Committee, which was composed of representatives of the Ministry of Education; the Ministry of Health; the Ministry of Labour and Employment; the Special Secretariat for Social Assistance (SEAS); the Department for Children and Adolescents of the Ministry of Justice;

Institute of Applied Economic Research (IPEA); National Foundation for the Indian (FUNAI) and a representative of the National Council for the Rights of Children and Adolescents (CONANDA). Representatives of the following ministries and agencies also took part in the meetings or provided data: the Ministry of Culture; the Ministry of Science and Technology; the Ministry of Sports and Tourism; the Brazilian Institute of Geography and Statistics (IBGE); the Public Prosecution Service for Labour; the Human Rights Committee of the Chamber of Deputies; the Training Centre of the Superior Court of Justice; and the National Council for Combating Racial Discrimination, among others.

9. In the process of elaborating the report, efforts were made to ensure the active participation of civil society. A significant number of non-governmental organizations with a recognized presence in the area were invited to take part in the process in whatever way they saw fit. Organizations from civil society decided that they would be represented in the Drafting Committee by the representative of CONANDA, an agency created in 1991 and made up of an equal number of government and non-government representatives - 10 each.

10. With a view to expanding even more the process of consultation with society and above all enhancing the protagonist role of the children and adolescents themselves in the whole process, the Government of Brazil plans to publicize the present report. Ideally, any reactions concerning this report will be consolidated in due course and submitted to the Committee on the Rights of the Child.

11. In addition, it should be clarified that the report presented herein does not include general information on Brazil and its population, the political structure of the country or the normative standards for human rights. Such information is in the process of being updated and will be submitted shortly to the Office of the United Nations High Commissioner for Human Rights, as an addendum to the core document (document HRI/CORE/1/Add.53), presented in September 1994 and officially released on 10 January 1995.

12. As one can gather from reading the present report, the Government of Brazil has sought to deal with the theme objectively and transparently, without sidestepping the problems that it is facing. Among other questions, the repercussions of the unequal social structure on the lives of children and adolescents were examined, revealing that the imbalance in income distribution particularly affected this segment of the population. Notwithstanding the progress obtained, the percentage of children and adolescents living in poverty in Brazil is still significant.

13. In the poorest families, very often single-parent families and headed by women, the number of children is greatest, and it is also where one finds the most precarious sanitation and feeding conditions. Moreover, when the characteristics of the family environment are hostile, some children or adolescents might end up in the streets, exposing themselves to new types of violence and risk. Defining the best strategy for dealing with these problems remains an important challenge. The gravity of the question led the Government of Brazil to introduce during the 1990s a series of direct income-transfer programmes which, as the report points out, benefited thousands of families in the most vulnerable situation. Civil society also mobilized itself and launched various innovative initiatives, many of them in partnership with the Government.

14. In dealing with the specific problem of the adolescent, the report analyses two serious questions: the growing incidence of early pregnancy among girls and the increase in cases of violent death among boys. These are problems of the greatest complexity which, to be rectified, require the joint efforts of the Government and society. The question of juvenile delinquency is also examined in the report with signs that the passing of the Statute of the Child and Adolescent has represented a substantial advance on the juridical plane, but with results that are still far from ideal in terms of the effective implementation of the rights set forth in the Convention.

15. From the point of view of Government policy successes, the substantial reduction in the infant mortality rate and the significant expansion of primary education should be highlighted. This dual line of action was considered a priority in the last decade and as such, concentrated the greatest Government efforts for the area, in terms of overall public policy targeted at children and adolescents. The results of these policies are clear: fewer Brazilian children are dying; more children are receiving schooling.

16. Another positive aspect of Government action is the series of policies and programmes for combating child labour. One is witnessing a progressive expansion in the number of persons benefiting from government programmes, as well as a rising level of awareness among Brazilian society on the harm caused to children and adolescents by underage work. Sexual violence and the sexual exploitation of children and adolescents for commercial ends are also examined in the document, which includes a list of the programmes and mechanisms which the State, in partnership with civil society, has sought to implement in order to combat these grave problems. Besides providing a minimum income to the families of the children and adolescents freed from exploitation, the programmes adopted are designed to ensure an expansion of schooling by conditioning payment of the benefit on proof of school attendance.

17. The situation of children and adolescents of Afro or indigenous descent is analysed in different parts of the report. In the case of the former, one finds a lower level of income and schooling; as for the indigenous peoples, one finds a need to establish, within the overall native-Brazilian policy framework, a policy which is specifically directed at indigenous children and adolescents. The recent implementation of a number of important initiatives are mentioned in the report.

18. In the health area, the report points to the notable success of the Brazilian HIV/AIDS control programme which, through preventive action and the offer of free treatment to everyone, has managed to bring about a significant reduction in the rate of infection among children and adolescents, a 50 per cent reduction in the vertical transmission of the disease and an increase in the life span of children and adolescents living with HIV. One should also mention the immunization campaigns which have led to the eradication of poliomyelitis and measles.

19. Another great step forward that the present report underlines is the formation of a network of agents responsible for the enforcement of legally acquired rights, which Government efforts and those of civil society are contributing to. This network finds its strongest expression in the formation, at the national, state, and municipal levels, of the Councils for the Rights of the Child and Adolescent and the Guardianship Councils. The way in which they were conceived and their mutual interaction give these councils the necessary capillary action to directly affect the lives of millions of children and adolescents, in terms of empowering children and adolescents and guaranteeing their rights.

20. It should be pointed out, and the report highlights this, that the Convention on the Rights of the Child and the Statute of the Child and Adolescent marked a new conception of the child and adolescent in Brazil, breaking significantly with the previous normative standards, where a repressive and paternalistic conception prevailed in dealing with questions involving children and adolescents.

I. GENERAL MEASURES OF APPLICATION

A. Measures adopted to reconcile Brazilian legislation with the provisions of the Convention

21. In perfect consonancy with international protective parameters, particularly with the Convention on the Rights of the Child, the 1988 Brazilian Constitution and the Statute of the Child and Adolescent inaugurated, within Brazilian juridical culture, a new paradigm inspired by the conception of the child and adolescent as true rights-bearers, in a special stage of development.¹

22. This new paradigm promotes the doctrine of full protection to the child and adolescent and recognizes a logic and a set of principles of its own directed at ensuring the prevalence and primacy of the interests of the child and adolescent. In their capacity as rights-bearers in a special stage of development, the right to special protection is guaranteed to children and adolescents. From the human rights standpoint, the 1988 Constitution and the Statute of the Child and Adolescent expressed a comprehensive view of the human rights of children and adolescents, including the indivisibility of these rights, their reciprocal implementation and the equal importance of all the rights, whether civil, political, social, economic or cultural.

23. The process of elaborating the 1988 federal Constitution, in the context of the re-democratization of the country, led to a full national debate, with the active participation of civil society. As a consequence, social questions and the rights of children and adolescents were given an unprecedented treatment in the present Constitution, compared with previous charters.

24. The priority conferred on children and adolescents runs throughout the 1988 federal Constitution, but the inclusion of an article devoted specifically to guaranteeing civil, economic, social and cultural rights establishes their importance for Brazilian society as a whole. Such a treatment resulted from a process in which popular participation, government sectors and members of the Constituent Assembly all worked together. In 1986, Interministerial Directive No. 449 created the Children's and Constituent Assembly National Committee, made up of representatives from the Ministries of Justice, Education, Social Security and Welfare, Planning and Labour. Also in 1986, a technical and financial cooperation agreement was signed between the Ministry of Education and the United Nations Children's Fund (UNICEF) ensuring the participation of the latter in the process of debating the juridical norms and institutional framework for protecting children's rights.

25. By this time, the draft of the Convention on the Rights of the Child, under discussion since 1980 by a working group appointed by the United Nations General Assembly, was now available, which led to principles already in a stage of consensus and which would form part of the Convention being included in the 1988 federal Constitution.

26. The Children's and Constituent Assembly National Committee carried out important work in informing and mobilizing public opinion. Debates and meetings were held in various states of the federation and widely publicized in the media. Members of the Constituent Assembly received letters signed by more than 1.3 million children and adolescents requesting the inclusion of the rights of the child and adolescent in the constitutional text. It should be stressed that children and adolescents participated actively throughout the constituent assembly process, canvassing for children's and adolescents' rights.
27. Two amendments, the result of a popular initiative, were then submitted to the Constituent Assembly and fused into article 227 of the Constitution. This article guarantees children and adolescents political, civil, social, economic and cultural rights, according to the following principles: (a) full protection; (b) absolute priority; (c) responsibility shared between the family, society and the State; and (d) children and adolescents as rights-bearers.
28. In fact, article 227 of the 1988 Brazilian Constitution lays down that: "It is the duty of the family, society, and the State to guarantee children and adolescents, with absolute priority, the right to life, health, food, education, leisure, professional training, culture, dignity, respect, liberty and family and community life, besides maintaining them safe from any form of negligence, discrimination, exploitation, violence, cruelty and oppression."
29. By virtue of the vulnerability to which children and adolescents are subject, special and particular juridical protection is outlined, which reflects the so-called "specification process" of the rights-bearer. It should be said that general, generic and abstract protection is not enough; one moves to special protection, addressed to certain groups, which require specific juridical guardianship. In the case of children and adolescents, this specific guardianship is justified, either because they are rights-bearers at a special stage of development, or because they are faced with an "adult-centric" culture, which conceives the world basically from the point of view of adults, undervaluing children and adolescents and considering them as inferior subjects.
30. In their capacity as rights-bearers at a special stage of development, children and adolescents are guaranteed special protection. It should be said that the special rights recognized for children and adolescents stem from their particular condition of being a developing human being. As a consequence, the State and society should ensure, through laws or other means, every opportunity and facility to allow them to fully develop their physical, mental, moral, spiritual and social capabilities, making sure that this occurs under conditions of freedom and dignity.
31. The 1988 Constitution, in article 227, paragraph 3, lays down that the right to special protection shall encompass the following aspects: (a) minimum age of 14 years to commence work, observing the provisions of article 7, XXXIII; (b) a guarantee of social security and labour rights; (c) guarantee of access of the adolescent worker to school; (d) a guarantee of the full and formal acknowledgment of the charged offence, equality in procedural relationships and legal defence by a qualified professional, pursuant to the specific guardianship legislation; (e) compliance with the principles of brevity, exceptionality and respect for the particular

condition of a developing person, when applying any liberty-depriving measure; (f) stimulus from the public authorities, through juridical assistance, fiscal incentives and subsidies, as laid down by law, to provide protection through guardianship to orphaned or abandoned children or adolescents; (g) prevention programmes and specialized care for children and adolescents dependent on chemical substances and similar drugs.

32. One can note that when dealing with the law-breaking adolescent, the repressive and remedial focus has now been transformed into a focus which gives priority to special protection, to involve the joint responsibility of the family, society and the State, with a view to socially rehabilitating the child or adolescent, as stipulated in the Statute of the Child and Adolescent.

33. Following the promulgation of the 1988 Constitution, social movements, particularly those related to the rights of children and adolescents, became deeply involved in the elaboration of the bill that would be passed by the National Congress to become the Statute of the Child and Adolescent.

34. Considering the origins of this reorganization of Brazilian legislation, from the very beginning in line with the Convention, it is clear that the mobilization behind the Statute of the Child and Adolescent was similar to what occurred in various countries in respect of the Convention.

35. In 1990 the Statute of the Child and Adolescent (ECA), Law No. 8.069 of 13 July 1990, was passed, revoking the previous Code of Minors and reconciling the sub-constitutional norms to the new set of constitutional principles. The ECA is designed to regulate the juridical situation of persons up to the age of 18 years, defining as a child a person up to the age of 12 years and someone aged between 12 and 18 years as an adolescent.

36. In elaborating the Statute of the Child and Adolescent, besides the Convention on the Rights of the Child, the following were also taken into account: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice Courts (Beijing Rules, 1985); the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990); and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990). Provisions resulting from Convention No. 138 (1973) of the International Labour Organization were also included; the minimum age for employment was fixed at 16. The Hague Convention on Protection of Children and Cooperation in respect of International Adoption was ratified by Brazil in 1999, and ILO Convention No. 182 (1999) on the prohibition of the worst forms of child labour and immediate action for their elimination, was ratified by Brazil in 2000.

37. The ECA statute guarantees children and adolescents under Brazilian jurisdiction all the rights provided for in the Convention on the Rights of the Child and emphasizes the democratic principle of the participation and control of civil society in formulating and implementing policies and initiatives designed to promote and defend rights.

38. In relation to the doctrine, legislation and policy previously in force in Brazil, based on the concept of a “minor in an irregular situation”, found in the Code of Minors, Law No. 6.697 of 10 October 1979, and the National Policy for Child Welfare (PNBEM), provided for by the 1964 Law No. 4.513, the Statute of the Child and Adolescent was an advance in the following respects:

- It replaced the generic concept of “minor” with that of “child and adolescent”, considered to be “developing persons” with different characteristics and needs;
- It conferred absolute priority to guaranteeing children and adolescents’ rights;
- It changed the focus of interpretation from a socially underprivileged, abandoned or delinquent child to that of a developing person, a bearer of enforceable legal rights;
- It replaced the repressive and remedial focus, according to which the child and adolescent in a situation of abandonment and/or in conflict with the law constituted a “question for the police and the courts”, with a new conception of special protection, which involves the joint responsibility of the family, society and the State.

39. One of the main innovations of the ECA statute is that it now applies to all persons below the age of 18, unlike the former Code of Minors, which only applied to minors in an irregular situation, creating a juridical dichotomy between children and adolescents in a regular family situation and those who were outside standards considered to be regular by the legislation and jurisprudential interpretation of such legislation. The term “minor” was so firmly associated with this irregular situation that today it is considered discriminatory and has been banned from the present legislation.

40. In the Brazilian juridical system, children and adolescents enjoy all the basic rights guaranteed to a human being, both those recognized by Brazilian law and those provided for in international treaties, to which Brazil is a party. Moreover, they enjoy the full protection conferred by the statute itself.

41. The characterization of children’s and adolescents’ rights as human rights highlights the inalienable character of these rights and commits the State, both on the domestic and international plane, to respect them, defend them and promote them. Furthermore, absolute priority should be given to these rights, as well as to meeting the needs of the child and adolescent.

42. Bearing in mind that the most recent international instruments for human rights stress the indivisibility between civil, political, economic, social and cultural rights, when considering children and adolescents’ rights as human rights, they must be guaranteed as a whole, from an

integral standpoint. This means that disrespect for any right implies that all the human rights, in one way or another, are violated, since they are interlinked and the guarantee of one right presupposes the guarantee of the others.

43. In accordance with this guideline, the ECA statute deals in an interconnected way with children's and adolescents' rights, extending to other rights, when it is concerned with protecting a certain right, and linking social and individual rights under a single title. In this way, the following rights are provided for: the right to life, health, liberty, respect, dignity, family and community life, education, culture, sport, leisure, professional training and employment protection. Here again, one has to emphasize the perfect harmony between the ECA statute and the Convention in their focus on children's rights, which equally endorse the indivisibility of the human rights of children, their reciprocal implementation and the equal importance of all rights.

44. The Statute of the Child and Adolescent is divided in two volumes. Volume 1 defines basic rights - the right to life and health (arts. 7 to 14); the right to liberty, respect and dignity (arts. 15 to 18); the right to family and community life (arts. 19 to 24); the right to education, culture, sports and leisure (arts. 53 to 59); the right to professional training and employment protection (arts. 60 to 69) - and the obligation, defined as being everybody's, to prevent the occurrence of any threat or violation of children's and adolescents' rights (arts. 70 to 85). Any individual or corporate entity that fails to comply with the norms of prevention shall be held responsible (art. 73).

45. Volume 2 establishes the guidelines for the Policy of Assistance for Children's and Adolescents' Rights (arts. 86 to 89); makes provisions concerning childcare organizations and their inspection and the forms of assistance (arts. 90 to 97); and specifies the protection measures for children and adolescents in a risk situation (arts. 98 to 102). It also defines the practice of a juvenile offence (arts. 103 to 105), the rights of the adolescent offender (arts. 106 to 109), the legal guarantees (arts. 110 to 111), socio-educational measures (arts. 112 to 125), the attributions and functioning of the Children's Court (arts. 145 to 151). Finally, it makes provisions concerning crimes practiced against children and adolescents, by act or omission (arts. 225 to 244), as well as administrative infractions committed in detriment to the rights of the child and adolescent (arts. 245 to 258).

46. One of the most important innovations of the Statute of the Child and Adolescent is judicial protection of the individual, diffuse and collective interests (arts. 208 to 224) guaranteed to the child and adolescent. The statute makes provisions concerning liability suits and civil actions in the event of any violation of these rights. The focus of the statute is based on a participatory democracy of civil society to coordinate and control public policies in the "rights councils".

47. Throughout this report, the provisions found in the statute will be examined in detail together with their consonancy with the minimum protective parameters established in the Convention on the Rights of the Child.

B. Existing mechanisms (national and local) for coordinating the policies related to children and supervising the application of the Convention

48. In replacing the old National Policy of Child Welfare, the ECA statute instituted a new Policy of Assistance for the Rights of the Child and Adolescent, which is based on two basic guidelines coming from the 1988 federal Constitution (art. 227, para. 7): political-administrative decentralization and popular participation.

49. In this new scheme, the federal Government is responsible for coordinating and establishing the general norms of the new policy, while the states and municipalities coordinate and execute the programmes and activities. The statute lays down that this policy will be implemented through an interlinked set of government and non-governmental initiatives and actions.

50. In brief, this new policy covers:

- Basic social policies of a general character, which should be guaranteed to all children and adolescents without distinction, offered through legal and institutional sectoral structures. Health and education policies, for example, should give priority to children and adolescents and meet their needs according to the precepts of the statute;
- Social assistance policies, which include a series of programmes and activities directed at children and adolescents in a permanent or temporary situation of need, by reason of economic deprivation or other factors of vulnerability;
- The special protection policy, which is designed for children and adolescents who find themselves in a situation of personal and social risk. A situation of personal and social risk is the exposure of the child or adolescent to factors that threaten or violate their physical, physiological or moral integrity, by act or omission of the family, other social agents, the State or the children and adolescents themselves. In the Brazilian situation there are various situations which represent a social and personal risk for children and adolescents: abandonment; abuse; negligence and mistreatment; exploitation of child labour; sexual exploitation; living in the streets; drug addiction; and juvenile delinquency.

51. As for the second constitutional guideline, public participation should be guaranteed both in formulating and executing the new policy and in controlling activities in all three levels of government. The municipalization of children's services provided for in the statute (art. 88), besides strengthening and guaranteeing the decentralization guideline, gives society greater control over the use of public resources and the quality of the services provided.

1. The Councils for Children's and Adolescents' Rights

52. The creation of Councils for Children's and Adolescents' Rights, in each sphere of Government (national, state, and municipal), allows the public to participate in the policy for

enforcing children's and adolescents' rights. These councils are deliberative in character, linked to the public administration, and they control the new policy. They are formed on an equal basis by representatives of Government and civil society.

53. At the federal level, Law 8.242 of 12 October 1991 created the National Council for the Rights of Children and Adolescents (CONANDA), which is responsible for:

- Elaborating the general norms for promoting and protecting the rights of children;
- Overseeing the implementation of assistance for children and adolescents;
- Assessing state and municipal policies and the performance of the state and municipal Councils for Children's and Adolescents' Rights;
- Monitoring the elaboration and implementation of the federal Government's budget proposal, indicating changes necessary for carrying out the policy of enforcing children's and adolescents' rights.

54. CONANDA is composed of representatives from the Ministries of State: Justice; Foreign Relations; Education and Sports; Health; Treasury; Labour; Social Security and Social Assistance; Culture and Planning and Budget, besides a representative from the Executive Office of the President and non-governmental organizations. The representatives of non-governmental organizations are elected by their peers. CONANDA has an executive secretariat and meets generally once a month.

55. The law also confers powers on CONANDA to monitor the institutional re-organization and to propose, whenever necessary, changes to public and private structures designed for child and adolescent care and assistance.

56. The state and municipal Councils for Children's and Adolescents' Rights according to the law and following the recommendations of CONANDA, formulate and control the policies directed at children and adolescents, at the respective levels. The rights councils stage conferences every two years to debate important themes related to implementing the assistance policy.

57. All government and non-governmental bodies dealing with children and adolescents are obliged to submit their programmes to the municipal council, which informs the Guardianship Council and the local judicial authority. (statute, art. 90.)

58. By 1999, in addition to the national council and all 27 state councils, 3,948 municipal councils were created, in 72 per cent of Brazilian cities. The lack of infrastructure over the years has hampered the setting up of municipal councils and which is partly responsible for the lack of understanding concerning the meaning and importance of these bodies in terms of child and adolescent care. The councils are distributed by demographic region, as shown in the following table:

Table 1
Municipal Councils for Children's and Adolescents' Rights

Major regions	Municipalities	Councils	Percentage
Brazil	5 507	3 948	71.7
North	449	261	58.1
North-east	1 787	1 087	60.8
South-east	1 666	1 210	72.6
South	1 159	1 005	86.7
Centre-west	446	385	86.3

Source: IBGE, Research Directorate, Department of Population and Social Indicators, Research of Basic Municipal Data 1999.

Note: The Federal District was not included in the results.

2. Funding for the child and adolescent

59. Besides the Councils for Children's and Adolescents' Rights, Brazilian legislators have sought to ensure funding mechanisms for the new Children's Rights Policy. Thus the ECA statute also establishes, as one of the guidelines of the policy, the creation and maintenance of funds² (national, state and municipal) linked to the respective rights councils.

60. The statute linked a source of regular resources to the fund based on a fiscal waiver, without detriment to other revenues. According to the legislation in force, private and corporate taxpayers can deduct from their income tax liability a corresponding sum to that donated to the national, state and municipal funds. Individual taxpayers can, according to Law No. 9.532 of 10 December 1997, deduct up to 6 per cent of their income tax liability, and companies, according to Provisional Law No. 2.189-49 of 23 August 2001, up to 1 per cent of their corporate tax liability.

61. The funds are administered by the executive power of the respective government sphere, which means they are linked to the public budgets, the functioning of which is extremely complex and not very accessible to persons unfamiliar with the theme, like many of the representatives of civil society and the government that sit on the rights councils.

62. According to CONANDA resolution 78, the resources of the funds should as a priority be allocated to protection programmes and socio-educational measures. Children and adolescents, therefore, in a situation of personal and social risk - juvenile offenders, drug addicts, victims of ill-treatment and those who live in the streets - shall be given preference in the allocation of the resources of the funds.

63. At the federal level, the National Fund for Children and Adolescents (FNCA), which was also created through Law No. 8.242/91, only began to receive budget allocations from 1995 onward, after being regulated by Decree Law No. 1.196 of 14 July 1994. Despite the legal provision for receiving tax-deductible donations from individuals and companies, the FNCA has only received one donation during these years. Thus, the sources of funding are almost

exclusively federal taxes, the nominal amounts of which are shown in the following table. The financial resources of the FNCA allocated to children and adolescents are well below the real national requirements and, as one can see, have been declining.

Table 2
Budget spending of FNCA during the 1995-2001 period

Year	Amounts allocated (R\$)
1998	2 925 614
1999	3 714 149
2000	1 982 530
2001	1 765 446

Source: General Budget Coordination of the Ministry of Justice.

64. The state and municipal funds are created through their own respective legislation. According to data from the Brazilian Institute of Geography and Statistics (IBGE) for 1999, all 26 Brazilian states, the Federal District and around 1,400 municipalities had created their funds for the child and adolescent.

65. The state and municipal funds have been more successful at collecting tax-deductible donations. Private citizens and companies have preferred to make donations at the local level, which is in line with the directive advocated by the statute, for political and administrative decentralization. However, as table 3 below demonstrates, the number of companies that donate to the funds is small in relation to the total number of companies eligible to make such donations. Among the reasons for this is the limited negotiation between the councils and potential donors concerning the allocation of resources, the bureaucratic complexity involved in making the donation and the budgetary spending. It is a difficult task for members of the rights councils to manage the funds, due both to bureaucratic technicalities and possible doubts about how to capture and invest the resources.

Table 3
**Companies donating to the funds in relation to the total number
of companies eligible to donate (2000)**

Regions	Donor companies (per cent)	Total number of companies with tax to pay
South	1.2	19 163
South-east (except São Paulo)	0.3	16 657
São Paulo	0.6	27 591
North-east	0.2	9 229
Centre-west	0.3	4 564
North	0.2	2 008
Brazil	0.6	79 212

Source: Ministry of Finance/IRS, 2000.

3. Guardianship Councils

66. Besides the Councils for Children's and Adolescents' Rights and their respective funds, the statute created another juridical-institutional entity of great importance for the new childcare policy: the Guardianship Councils. These are permanent and autonomous organs, non-jurisdictional, entrusted by society for enforcing children's rights. Their members (five) are chosen directly by the local community for a three-year mandate and each municipality must have at least one Guardianship Council. The Guardianship Council has the following functions:

- To meet the needs of children and adolescents whose rights are threatened or violated;
- To apply protective measures for these children and adolescents;
- To liaise with and counsel parents or person responsible and, if necessary, issue a warning;
- To demand public services in the health, education, social assistance, social security, labour and work safety areas;
- To communicate with the Public Prosecution Service concerning occurrences that constitute an administrative or criminal offence against the rights of the child or adolescent;
- To make a representation to the judicial authorities in the event of unjustified non-compliance with their deliberations;
- To submit to the judicial authorities cases that fall within their competence;
- To provide any protective measure established by the courts for an adolescent offender;
- To request birth and death certificates for children and adolescents when necessary;
- To advise the local Executive Power on the elaboration of the budget proposal for plans and programmes for enforcing the rights of the child and adolescent; and
- To make a representation to the Public Prosecution Service in cases of loss or suspension of custody.

67. The decisions of the Guardianship Council can only be revised by the courts at the request of someone with a legitimate interest. By 1999, 3,011 Guardianship Councils had been created all over Brazil, distributed by geographical regions, according to the following table.

Table 4
Guardianship Councils

Major regions	Municipalities	Councils
Brazil	5 507	3 011
North	449	185
North-east	1 787	647
South-east	1 666	897
South	1 159	951
Centre-west	446	331

Source: IBGE, Research Directorate, Department of Population and Social Indicators, Research on Basic Municipal Data 1999.

Note: The Federal District was not included in the results.

68. In relation to Guardianship Councils, representatives of civil society have expressed their discontent at the failure, during the 12-year existence of the ECA, to set up these councils in all Brazilian municipalities. As these representatives point out, such a situation results from a lack of infrastructure and resources, in addition to the failure to grasp the significance of these councils.

4. System of guarantees

69. The Guardianship Councils, the councils of rights and the funds are essential institutions in the new Children's Rights Policy. Equally essential are the specialist agencies in the security, justice and childcare areas, as well as the forums of civil society that make up the so-called "system of guarantees". This system has its origin in the ECA statute itself, which lays down, among other provisions, that the states and Federal District should create specialized and exclusive children's courts and confers a broad and well-defined responsibility on the Public Prosecution Service to defend the individual, diffuse and collective rights of the child and adolescent. The creation of integrated units is particularly encouraged, with a specialized police force, the Children's Court and the Public Prosecution Service operating in the same place, in a coordinated way, which helps to prevent the violation of rights, the abuse of authority and the risk of mistreatment. In some states, like Bahia and São Paulo, there are already a number of these integrated centres, which have been making an efficient contribution to an integrated childcare service.

70. The process of restructuring government agencies and policies to match them with the new legal order was already under way at the same time the proceedings of the Constituent Assembly and the statute were being concluded. In 1990 the National Foundation of Child Welfare (FUNABEM) was shut down. This was the central agency responsible for the previous National Policy of Child Welfare, replaced initially by the Brazilian Centre for Childhood and Adolescence (CBIA), which had already introduced various changes and initiated, among other

things, a publicity campaign concerning the statute and a training programme for civil servants in the states and municipalities. In 1995 the CBIA was shut down and a new Department for the Child and Adolescent was created within the Secretary of State for Human Rights of the Ministry of Justice. It is the Department's responsibility in close collaboration with CONANDA:

- To promote, stimulate, monitor and assess the implementation of the Statute of the Child and Adolescent;
- To promote and encourage the adoption of socio-pedagogic projects by assistance institutions working directly with adolescents in conflict with the law;
- To support the strengthening of the network of juridical-social protection for children and adolescents;
- To promote the production, systematization and dissemination of information related to juvenile questions;
- To execute the activities inherent to the function of Federal Central Authority in matters of adoption;
- To manage and promote the dissemination of the information system for childhood and adolescence; and
- To coordinate nationally the policy of promoting and defending the rights of the child and adolescent, as well as support services and programmes providing direct assistance to adolescents in conflict with the law.

71. In the majority of states, the old State Foundations of Child Welfare (FEBEM) were already being restructured, at least in formal terms. Among the changes that took place, one can mention the new names given to the foundations, the specialization of sectors responsible for dealing with juvenile offenders, the transfer to assistance and/or educational agencies of the programmes directed at poor or abandoned children and adolescents (creches, shelters, social assistance programmes, scholarships, combating child labour, etc.).

72. Since the beginning of the 1990s, the state directors of childcare agencies have started to link their activities together in their own forum, the National Forum of Government Directors of Executive Agencies of the Policy of Enforcement of the Rights of the Child and Adolescent (FONACRIAD), and their performance in the struggle to implement the statute and the changes in their own restructuring was and continues to be very significant.

73. For more than a decade, therefore, they have been working to bring about institutional changes in terms of the agenda, methods and management necessary to achieve the fundamental rights established by the ECA statute. This need to reorganize the institutions and integrate the justice, security and childcare (identifying the actors, functions, limits of competence, interfaces and flows, demands for essential specialist services, operating in an organized and interlinked public service network), involving the three administrative spheres, the different powers and

non-governmental organizations, has been requiring a huge national effort, even though the advances are still insufficient, given the situation of vulnerability of the child and adolescent in Brazil.

5. The rights of the child and adolescent in the context of human rights

74. In May 1996, Brazil adopted its National Programme of Human Rights, in compliance with the recommendation of the World Conference on Human Rights, held in Vienna in 1993. In May 2002, the National Programme of Human Rights II was launched, with the aim of incorporating targets related to economic, social and cultural rights.

75. In raising human rights to public-policy status, the human rights programmes established important goals for the protection, defence and promotion of the rights of children and adolescents. As an example, one can mention programmes: to support and strengthen the functioning of CONANDA; to encourage family guidance with the objective of teaching families to resolve internal conflicts in a non-violent way; to give continuity to the national campaign for combating sexual exploitation of children; to stimulate the creation of structures for the development of socio-educational programmes for adolescent offenders; to stimulate the setting up, in the states and municipalities, of rights councils and guardianship councils; to invest in training professionals responsible for implementing the children's rights policy in the state and municipal governments and non-governmental organizations; to set up national and state information and monitoring systems for children and adolescents; and to ensure the implementation and adequate functioning of the agencies that make up the system of guarantees of the rights of the child and adolescent, stimulating the creation of specialist public defence centres for child and adolescent care (with their rights violated), police departments for investigating crimes committed against children and adolescents and exclusive courts for crimes against children and adolescents.

C. Child budget and federal Government expenditure on the policy of enforcing the rights of the child and adolescent

Evolution of total federal social expenditure (GSF) and federal expenditure on children and adolescents, 1993-2001

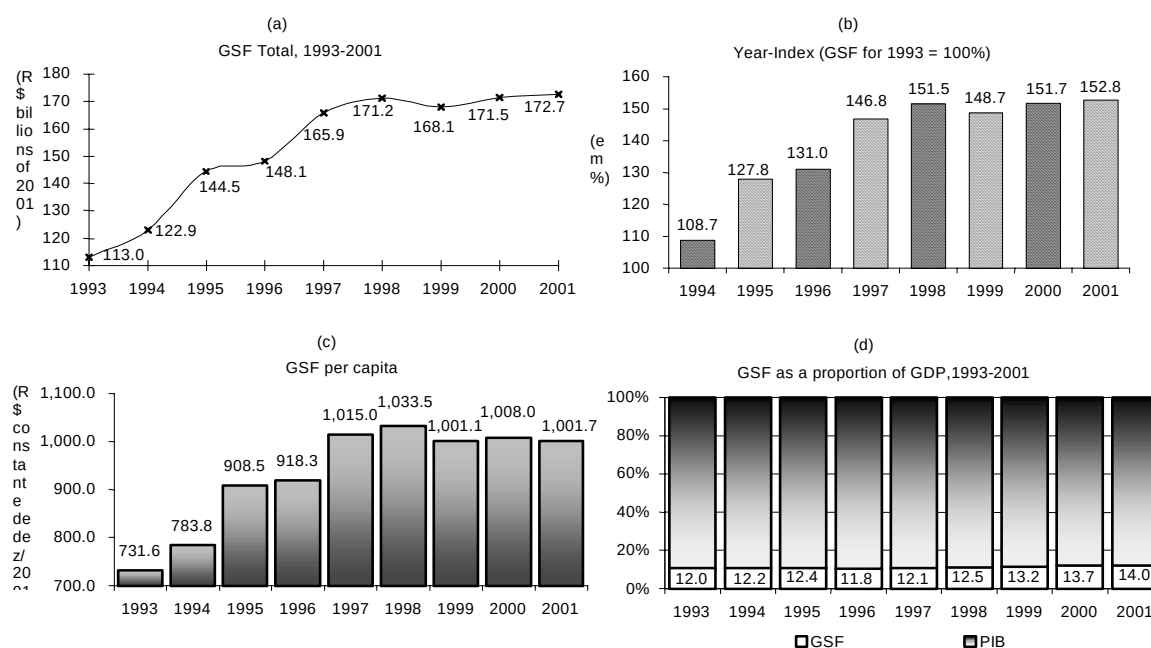
76. An important way of visualizing the performance of the federal Government as a whole in meeting social needs and in protecting special groups of the population - as is the case of children and adolescents - is to analyse federal social expenditure (GSF), both in absolute values and its structure and evolution. Although the efficiency in allocating the resources cannot be measured a priori only by the volume of funds invested, it allows one to measure the degree of commitment of the government to social questions and which areas (education, health and social assistance, for example) are considered priority.

77. In this study, the evolution of total GSF is given for the 1993 to 2001 period together with a brief analysis. Then, the specific federal expenditure on children and adolescents (aged 0 to 18) is analysed for the years 2000 and 2001,³ comparing it with total GSF and disaggregating it into the respective areas - health, education, social assistance, citizen's rights and sport and leisure. It should be emphasized that the analysis is limited to the federal sphere, as these data do not exist at the state and municipal level.

78. In figure 1 below, using December 2001 deflated values, one can notice for the 1993-2001 period: (a) the absolute real evolution of GSF; (b) a real increase in GSF taking the 1993 number as a basis; (c) GSF per capita; and (d) the current GSF number in relation to nominal GDP.

Figure 1

Evolution of GSF, constant and relative values, 1993-2001



Source: Sidor. To calculate the GSF per capita population data from IBGE were used (population estimated for 1 July. Following the results of the 2000 Demographic Census, this estimate was revised for the whole of the 1990s).
Elaborated by: IPEA/DISOC

79. Thus, one can verify a real increase of 52.8 per cent in GSF during the period - reaching R\$ 172.7 billion in 2001. However, the growth of GSF was not uniform in the period: from 1993 to 1997, expenditures rose 46.8 per cent in real terms and the real rates of annual growth (or variation) are very high; while between 1997 and 2001, one finds annual growth rates which are much less significant - from 1997 to 2001, GSF grew only 4.1 per cent in real terms.

80. The GSF per capita follows practically the same evolution trend as GSF in the period. From 1993 to 1998, GSF per capita rose significantly, then fell slightly, remaining on a slightly lower level from then onward. The relationship between GSF and GDP followed a different path: it remained at a relatively stable level in the early years of the period and rose in proportional terms from 1996 onward - reaching 14 per cent of Brazilian GDP in 2001.

81. Federal expenditure on children and adolescents in 2000 and 2001, in turn, is shown in table 5 below. One can see that total federal expenditure on this age group rose 8.9 per cent in real terms from one year to the next. It should be mentioned, however, that this growth might have been greater if the level of budgetary spending - which measures financial spending in relation to the expenditure authorized after laws and credits - observed in 2000 had been maintained in 2001.

Table 5
Federal expenditure on children and adolescents, 2000-2001
(millions of 2001 R\$)

Area	Federal expenditure on children and adolescents						
	(Total in millions of 2001 R\$) ^a			Per capita (in R\$) ^b		Level of budgetary spending (%)	
	2000 (a)	2001 (b)	Variation % [(b-a)/a]100	2000	2001	2000	2001
Social assistance	1 320.8	1 829.5	38.5	21.2	29.4	94.4	62.0
Education	2 980.0	3 140.7	5.4	47.9	50.5	89.3	85.6
Citizen's rights	15.9	27.7	74.8	0.3	0.4	60.9	61.5
Health	7 594.0	7 938.3	4.5	122.1	127.6	97.3	96.2
Sports and leisure	208.0	266.3	28.0	3.3	4.3	77.1	77.8
Total	12 118.8	13 202.6	8.9	194.9	212.3	92.9	85.7

Source: Elaborated by: DISOC/IPEA.

^a Siafi.

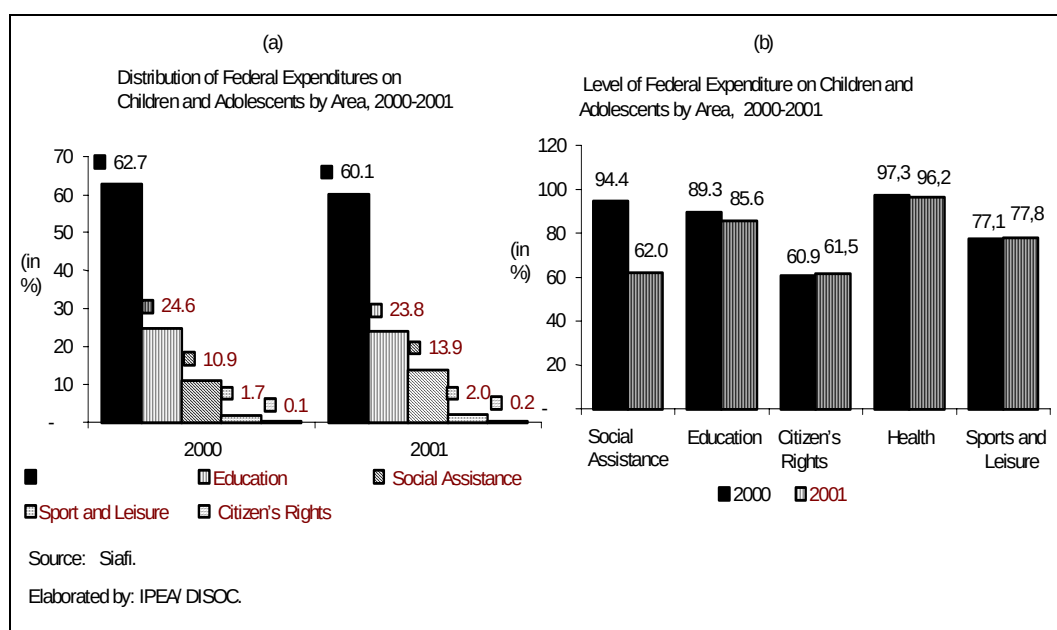
^b Microdata Pnad 2001 - IBGE.

82. Moreover, one can see that the expenditure in all the different areas also grew during the period, both in absolute terms and per capita. However, the variation in each area occurs in different intensities: the areas which showed the most significant increase, such as citizen's rights, sport and leisure and social assistance, are the least representative in terms of the total spending in each year; on the other hand, the education and health areas, which together represent more than 80 per cent of federal spending in each year on the population aged 0 to 18, show the least variation from 2000 to 2001. Furthermore, as can be seen in figure 2 below, budgetary spending in the two main areas dropped in 2001, which makes their shares in relation to the total earmarked for children and adolescents decline, even though their relative

expenditures continue to predominate by a long way. It should also be stressed that the relative growth in the social assistance area, which was not greater than it, was due to a 32.4 per cent reduction in budgetary spending from 2000 to 2001; finally, one's attention is drawn to the low budgetary spending in the area of citizen's rights in the two years analysed.

Figure 2

Distribution and level of budgetary spending of federal expenditure on children and adolescents by area, 2000-2001

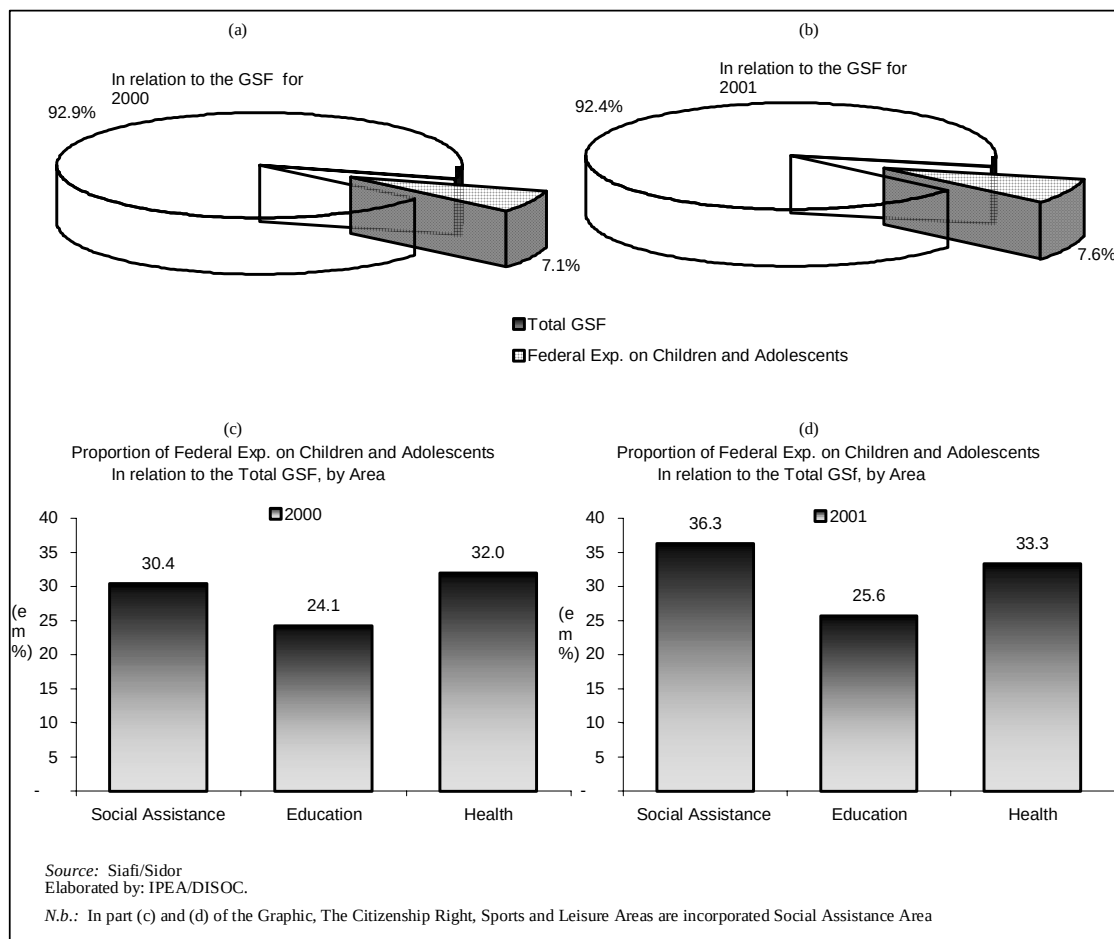


83. Measuring the weight of federal expenditure on children and adolescents in relation to total GSF in 2000 and 2001, one can see in figures 3 (a) and (b) an increase in the proportion of total GSF from 7.1 per cent in 2000 to 7.6 per cent of total GSF in 2001. If one considers that GSF rose from 2000 to 2001, then this means that the variation of federal expenditure on children and adolescents in 2001 is greater than that in total GSF, indicating greater attention on the part of the federal Government with this age group. Unfortunately there is no historical series of disaggregated data to verify the trends. There are efforts under way to generate such historical data.

84. Finally, disaggregating GSF by area, one comes to the conclusion through figures 3 (c) and (d) that all the areas that make up federal expenditure on children and adolescents increased their relative share in the total expenditure of each GSF area. The greatest increase is found with expenditures in the social assistance area⁴ which went from 30.4 to 36.3 per cent of total GSF allocated to social assistance activities in 2001. The education and health areas, in turn, vary less, something around 1.5 percentage points.

Figure 3

**Proportion of federal expenditure on children and adolescents
and respective areas in the total GSF, 2000-2001**



II. DEFINITION OF THE CHILD

85. The Statute of the Child and Adolescent defines a child as a person up to 12 years of age and an adolescent as being someone between 12 and 18 years of age (art. 2), dividing, therefore, the concept of child contained in the Convention into two stages of life and development.

86. Relative majority is reached at 18 and absolute majority at 21, the age at which persons are entitled to practise all the acts of civil life (Civil Code, art. 9). Brazilian legislation provides for the possibility of emancipation of a minor, which means bringing forward the age of majority, and the consequent right to practise all the acts of civil life (Civil Code, art. 9).

87. Since 2003, with the coming into force of the new Civil Code, Law No.10.406 of 10 January 2002, minority ends when the person reaches 18 years. Emancipation, however, may be reached at 16 through the consent of the parents, or of one of them in the absence of the

other, through the sentence of a judge, after consulting with the guardian, through marriage, through the full exercise of public employment, on bestowal of a university-level degree, through civil or commercial stability, or through the existence of an employment link, provided that, as a result thereof, the minor of 16 is self-supporting.

88. The law establishes a minimum age for:

- *Privation of liberty*: a minor of 12 years, a *child*, cannot be deprived of liberty (ECA statute, art. 105), being subject to the following measures for offences: restoring the child to the parents or guardian, through a signed undertaking of responsibility; temporary guidance, support and supervision; compulsory enrolment and attendance in an official primary education establishment; inclusion in an official community programme to aid the family, child and adolescent; requisition of medical, psychological or psychiatric treatment, either in hospital or an outpatient clinic; inclusion in an official or community programme to aid, orient and treat alcohol and chemical substance abuse; placement under institutional care; placement in a foster family (ECA statute, art. 101). For *adolescent* offenders, the statute makes provision for the application of the following socio-educational measures: warning; obligation to repair the damage; rendering of community services; supervised liberty; placement in a semi-boardings or boarding educational establishment (statute, art. 112). Internment constitutes a privation-of-liberty measure, subject to the principles of brevity, exceptionality and respect for the special condition of a developing person. Under no circumstance shall the maximum period of internment exceed three years. On completion of this limit, the adolescent shall be freed and placed under a regime of semi-liberty or supervised liberty. The adolescent shall be freed compulsorily at the age of 21 years (statute, art. 121);
- *Matrimony*: minors of 21 years can only marry with the consent of both parents or guardian (Civil Code, art. 185). The Civil Code in force until 2002, prohibited the marriage of female minors below 16 years and male minors below 18 years (Civil Code, art. 183, XII). The new Civil Code lays down that, from 2003 onward, a male and a female of 16 can marry, provided that they have the consent of both their parents or their legal guardians, while they have not yet reached the age of legal majority (art. 1.517);
- *Military service*: the obligation to render military service commences on 1 January of the year in which a male citizen reaches 18 years of age. To render military service as a volunteer is allowed at the age of 17 years of age (Military Service Law/Law No. 4.375). (For further information, see the section “Children in armed conflicts” of this report.);
- *Criminal incapacity*: minors of 18 are considered not to be criminally responsible for their acts (federal Constitution, art. 228, and Statute of the Child and Adolescent, art. 104);
- *Electoral registration and voting*: it is compulsory for persons 18 and over and optional for persons over 16 and under 18 years (federal Constitution, art. 14);

- *Employment*: any kind of night-time, hazardous or insalubrious work is prohibited for minors of 18 and any kind of work for minors of 16 years, except for apprenticeships of persons aged 14 or over (federal Constitution, art. 7, XXXIII and statute, arts. 60 and 67);
- *Education*: school education is compulsory and free from the age of 7 until the completion of primary education (Law No. 9.394, 20 December 1996, Law of National Education Guidelines and Bases, art. 6).

89. It should also be mentioned that organizations from civil society have mobilized over the following issues related to the minimum age: (a) resistance to the lowering of the penal age, emphasizing that the adolescent is at a special development stage and shall be held criminally incapable until 18; (b) the struggle against child employment, as exploitation of cheap labour; (c) the fight against sexual exploitation, in its countless forms; (d) the defence of social and educational inclusion of children and adolescents in Brazil; (e) the defence of the prohibition of alcoholic drinks and products with substances that can cause physical or psychic dependence.

III. GENERAL PRINCIPLES

A. Non-discrimination

90. The “citizen’s” Constitution of 1988, among its basic principles, establishes the goal of promoting the well-being of everyone, without distinction of origin, race, sex, colour, age and any other forms of discrimination. It should be said that the non-discrimination principle, which imposes, on the one hand, the prohibition of discrimination and, on the other hand, the promotion of equality, brings together rationality and the democratic ideology which guides the constitutional order of 1988. The ECA statute, in article 5, endorses the principle of non-discrimination, determining that no child or adolescent shall be the subject of any form of negligence, discrimination, exploitation, violence, cruelty and oppression, any violation by act or omission of their basic rights being punishable in accordance with the law.

91. In the field of basic rights and guarantees, the 1988 Charter innovates by establishing, in article 5, XLII, that the practice of racism constitutes a crime not giving the right to bail or prescription and subject to imprisonment, according to the law. Law 7716/89 defines and punishes the practice of racism. That is to say, from being considered a mere misdemeanour in the 1951 Afonso Arinos Law, racism was now a crime, a clear demonstration of the constituent assembly acting to eliminate racial discrimination. The 1988 Charter also establishes that the law shall punish any discrimination which infringes basic rights and liberties.

92. Concerning children and adolescents particularly, the constitutional text reaffirms the principle of non-discrimination in article 227, in establishing that it is the duty of the family, society and the State to ensure, with absolute priority, basic rights to the child and adolescent, protecting them from any kind of negligence, discrimination, exploitation, violence, cruelty and oppression.

93. The 1988 federal Constitution also breaks with the essentially civil nature of its precursor, which discriminated against children born out of wedlock (called “illegitimate”), particularly in questions of inheritance. The text abolishes once and for all such discrimination, specifying that children, whether born in or out of wedlock, or through adoption, will have the same rights and status, prohibiting any discriminatory designations concerning parentage.

94. Discrimination, however, can be identified in certain cultural and social practices, in a diffuse and not formally recognized way. It is important to consider the question of the Afro-Brazilian population, which is practically a majority in many Brazilian states. Although Brazil had never adopted racist legislation, the abolition of slavery, which only occurred at the end of the nineteenth century, left blacks in a socio-economic and cultural position that was, and continues to be, inferior to that of the general population. For example, the average income of blacks and whites is markedly different. While in 1999 the average Brazilian white person had a per capita monthly income of R\$ 352, the average Brazilian black person had a per capita income of only R\$ 156. This difference remained stable throughout the 1995-1999 period, as table 6 below shows.

Table 6
Average monthly income according to colour and year (R\$)

Year	All	Whites	Blacks*
1995	268	363	163
1996	268	363	162
1997	270	368	163
1998	273	374	164
1999	257	352	156

* IBGE. PNAD, 1995-1999. Elaborated by DISOC/IPEA from microdata.

95. Following the mobilization of the Afro-Brazilian population, certain measures of an affirmative character have been adopted recently by the Government. The 1988 Constitution had already recognized the definitive rights of ownership to the land occupied by the descendants of the original *quilombo* communities (formed by rebel African slaves, who set up independent and free territories). At the moment there are 743 identified communities; 36 already have land titles, which benefits 5,764 families that descend from *quilombos*.

96. The federal Government has recently adopted a series of measures designed to reduce racial discrimination in Brazil: (a) it issued Provisional Decree No. 63 of 26 August 2002, creating the university diversity programme, in the Ministry of Education sphere, with the aim of promoting access to higher education of persons belonging to socially underprivileged groups, especially Afro-Brazilian and native Brazilian populations, in partnership with government and non-governmental organizations that operate in the educational field; (b) the Ministries of Justice and Agrarian Development have established plans of affirmative action for Afro-Brazilians which aim at increasing their participation in the federal public service; (c) the Ministries of Foreign Relations and Justice, the National Council of Scientific and Technological Development (CNPq) have started to grant scholarships to Afro-Brazilians to attend preparatory courses for diplomatic careers.

97. As for children and adolescents, besides government support through the financing of cultural affirmation programmes, generally speaking carried out by non-governmental organizations, the following measures directed at combating racism should be mentioned:

- Inclusion of the race/colour question in the school census and in various official statistical surveys, in order to support initiatives for promoting greater opportunities for blacks;
- Reformatting of the Ministry of Education's school TV programming, with a view to revising the history of Brazil concerning the African contribution to the social formation of the country;
- Reassessment of all textbooks distributed or recommended to primary school pupils, eliminating publications that contain concepts or images that reinforce stereotypes or any kind of race, colour or gender prejudices; and
- Elaboration of the National Curricular Standards, in line with the objective of promoting the black race and combating discrimination.

98. The cultural plurality theme included in the National Curricular Standards concerns the ethnic and cultural characteristics of different social groups that coexist in Brazil, the socio-economic inequalities and the discriminatory social relations that permeate the society, providing the student with the possibility of learning about Brazil as a complex and multifaceted country.

99. The curricular reforms implemented in Brazil include the need to combat gender and race stereotypes or any types of discrimination, promoting respect and tolerance for differences. Besides this, the Government of Brazil is committed to introducing non-discriminatory subject material in relation to women and other themes that promote gender equality in teacher training courses.

100. In terms of the indigenous population, which comprises around 374,000 people (approximately 50 per cent children and adolescents), their rights and guarantees regarding the culture and specificity of each people, as well as the respect for such differences are provided for in articles 231 and 232 of the federal Constitution. The Government of Brazil, aware that land is the key factor in the indigenous question, has demarcated and regularized 102.2 million hectares. Other initiatives, particularly in the health and education fields, of vital importance for indigenous children and adolescents, are described later on in this report. Efforts have been made to publicize the native-Brazilian question nationwide, with a view to combating discrimination and prejudice, which are still to be found, and seeking to give proper value to the country's rich sociocultural diversity.

101. One important alteration introduced by the new Civil Code, Law 10.406/02, should be highlighted. This concerns the citizenship of the Brazilian Indian, since it abolishes the previous status of being a relatively "incapable" citizen and also State guardianship.

102. Despite this and other advances obtained, it should be noted that representatives of civil society and native-Brazilian leaders point to the persistence of the following basic problems: diseases transmitted by the whites; the process of acculturation; the often-precarious situation of their reserves; the lack of institutional support for Indian schools, in the sense of fully ensuring their traditions, languages and values.

103. In relation to children and adolescents with special needs, there are still great difficulties to overcome to eliminate architectural, urbanistic and attitude barriers. Nevertheless, considerable efforts are being made both at the Government and society level, to care for those with special needs, particularly within the educational system.

104. Despite the resistance, both from teachers and from the parents of disabled students (fearful of prejudice and rejection) and the parents of the other students, there has been a significant increase in the number of enrolments of special-needs students in the municipal and private school networks, as the table below shows. In 1988, municipal schools had around 11,000 students; in 2001 around 54,000 were enrolled, which represented a 367.5 per cent increase in enrolments. In the private system, the increase was 177.5 per cent. Considering the school network as a whole, enrolment in special education grew 94.5 per cent between 1988 and 2001.

Table 7
Enrolment in special education by administrative sector,
Brazil, 1988 to 2001

School network	1988		1996		1999		2001		Growth 1988/2001 (in percentage)
	Enrolments	Percentage	Enrolments	Percentage	Enrolments	Percentage	Enrolments	Percentage	
Total	166 290	100.0	201 142	100.0	311 354	100.0	323 399	100.0	94.5
Municipal	11 388	6.8	29 591	14.7	48 422	15.5	53 242	16.5	367.5
State	82 770	49.8	90 688	45.1	87 427	28.1	76 412	23.6	-7.7
Federal	2 605	1.6	938	0.5	832	0.3	840	0.3	-67.8
Private	69 527	41.8	79 925	39.7	174 673	56.1	192 905	59.6	177.5

Source: MEC/INEP/SEEC. Excluding rural population of the north region (except Tocantins). Number of special-needs students that receive schooling in exclusively specialized schools or in special classes in regular schools.

105. In relation to special education, representatives of civil society point to the need for public school teachers to receive better training for different special-needs students, besides stressing the need to invest more in the ongoing training of teachers, so that their work is of a higher quality and with more effective educational results.

106. As for the question of gender, many important advances have taken place for Brazilian girls and women. In the health field, knowledge and use of birth control methods have been growing significantly. Important measures have been taken to humanize prenatal care and increase and improve assistance at childbirth. However, the quality of this assistance is still a problem, as one continues to find extremely worrying maternal and infant mortality rates due to perinatal causes in some regions of the country. Bearing in mind this situation, various

initiatives have got under way in all the states of the Federation and in the Federal District, such as the implementation of the maternal mortality committees for investigating and analysing the deaths of women of childbearing age, with a view to taking action to reduce such deaths.

107. The maternal mortality rate witnessed a decline of around 28 per cent in the nation's capitals between 2001 and 2002. In 2001, out of each 100,000 live births, there were 71 deaths of women during gestation, delivery and post-delivery. In 2002, the estimate is that this number declined to 50. These numbers were announced by the Minister of Health, Barjas Negri, during the ceremony presenting the Oswaldo Cruz Medal of Merit and the Medal of the Order of Medical Merit. In all, 60 professionals that had contributed to promoting hygiene and public health were decorated by the minister.

108. The reduction in the maternal mortality rate is revealed in the survey carried out by the Faculty of Public Health of the University of São Paulo (FSP-USP), financed by the Ministry of Health and the Pan-American Health Organization (PAHO). This is the first survey carried out in all the Brazilian state capitals and has assumed great importance as it identifies the true cause of the deaths verified. More than a statistic, maternal death is an important indicator of the quality of life and the social reality of a country, as well as political determination in the public health area. The Ministry of Health was faced with a question of undefined proportions. The number of deaths is still underreported due to such facts as the existence of clandestine cemeteries, where persons are buried without any official record, the difficulty of access to notary publics and even because of the inadequate completion of the death certificate by doctors who, very often, omit that the woman died as a result of problems related to gestation.

109. In carrying out the research, efforts were made to verify, in situ, the true cause that led to the woman's death. This was done through interviews with family members of the victims and investigations of medical reports. This brought the data much closer to reality. Without the survey, due to underreporting, this rate would have been lower. The study identified that the number of women that die through maternal causes is 62 per cent greater than that verified in the death certificate. In developed countries like France, Germany, United States and Sweden, the underreporting percentages are at the same level.

110. Strategies to reduce maternal death in a continent-sized country, with approximately 3.2 million women pregnant each year, must be able to meet the needs of pregnant women in more than 5,500 municipalities. To this end, commencing in 1998, women's health was given priority among Ministry of Health policies. It is known that in Brazil 65 per cent of maternal deaths occur during childbirth. For this reason, investments were made in improving the quality of medical care during delivery. The Ministry of Health started to limit the number of Caesarean sections, as the risk of death in this case is five times greater than that of normal childbirth. Today, out of each 100 deliveries, 25 are by Caesarean, compared with 33 recorded in 1997.

111. It also began to pay for anesthesia in normal childbirth and increased the amount paid by the Single Health System (SUS) for all deliveries by 160 per cent. A specialization project was created for obstetric nurses, which produced 1,100 new professionals. Furthermore, the federal Government invested R\$ 100 million to set up the System of Alert to High-Risk Pregnancy in all the states and created the Galba de Araújo Award for maternity wards providing humanized health care.

112. Another important strategy for combating maternal mortality was introduced in June 2000: the Programme for Humanizing Prenatal Care and Childbirth. The initiative sprang from a desire to ensure access and quality of prenatal, delivery and post-delivery care, as well as neonatal care. By means of financial incentives to municipalities that join the programme, the Ministry intends to provide every pregnant woman with the right to at least six pre- and one post-childbirth consultation. All the basic exams are also guaranteed for a pregnant woman as well as a bed in a maternity ward. The municipality receives as an incentive R\$ 50 and the hospital R\$ 40 for each pregnant woman who has undergone the established procedures of the programme.

113. The Government of Brazil has also tried to give emphasis to infirmities that affect specific groups (racial, ethnic and of a sexual orientation, among others), seeking to ensure access to treatment and assistance, particularly of children and adolescents. It has also staged a full campaign to disseminate primers and educational material to instruct health professionals, family members and the infirm, designed to produce greater awareness of the problem and combat prejudice.

114. In the educational area, a substantial increase was verified over the last two decades in female schooling which, between 1992 and 1999, exceeded that of males - a trend also verified in the data on illiteracy. Average schooling of females went from 4.9 years, in 1992, to 5.9 years, in 1999, while that of males went from 4.8 to 5.6 years in the same period, as table 8 below shows.

Table 8
Average years of study of the population aged 10 or more,
by sex and region

Major regions	Total		Male		Female	
	1992	1999	1992	1999	1992	1999
Brazil ^a	4.9	5.8	4.8	5.6	4.9	5.9
North ^b	5.0	5.8	4.9	5.6	5.1	5.9
North-east	3.5	4.3	3.2	4.0	3.7	4.7
South-east	5.5	6.5	5.5	6.4	5.5	6.5
South	5.4	6.2	5.4	6.2	5.4	6.3
Centre-west	5.1	5.9	4.9	5.7	5.2	6.2

Sources: PNAD 1992: microdata; PNAD 1999: microdata - Summary of Social Indicators, 2000, IBGE.

^a Excluding the rural population of Rondônia, Acre, Amazonas, Roraima, Pará and Amapá.

^b Excluding the rural population.

115. Among the socio-economic factors that explain this phenomenon, the most influential is the entry of women into the labour market. Growing professionalization has worked as a stimulus for Brazilian females to seek a better level of schooling, even as a way of

compensating for wage discrimination which, continues to exist, albeit at a lower level. In 1993, the average remuneration of women in relation to men was 59 per cent, while in 2001, it had risen to 70 per cent.⁵

116. In terms of the higher female schooling rates in Brazil, it should be said that representatives of civil society point to the need to analyse the following fact which unfortunately also works toward increasing this difference: while child labour for girls takes place basically in the domestic sphere which, to some extent, makes her freer to go to school, child labour for boys takes place above all in the streets, to the detriment of school attendance, with an additional aggravation of exposure to situations of risk, such as substance abuse and petty larceny.

117. Despite recognizing the unmistakable advance in the situation of Brazilian girls during the period examined in this report, representatives of civil society also emphasize the need to vigorously combat the following problems: discrimination resulting from child domestic labour; sexual exploitation in tourism, particularly in beach resorts and frontier towns; sexual violence in the form of rape and harassment; ill-treatment at home; and early maternity.

B. The higher interest of the child

118. The federal Constitution lays down in article 227 that it is the duty of the family, society and the State to ensure the rights of the child and adolescent as an absolute priority. The child and the adolescent are defined by the ECA statute as developing persons, with special needs and who require full protection.

119. The absolute priority conferred on the child results in:

- Preference in receiving protection and help under any circumstance;
- The right to joint accommodation for mother and newborn child and the full-time presence of one of the parents or person responsible, in cases when a child or adolescent is interned in a health-care establishment;
- Precedence in the use of public services or services of public relevance;
- Being a preferential target in the formulation and execution of public policies;
- Priority in the allocation of public resources for programmes and activities related to the protection of the child and adolescent (statute, art. 4).

120. The ECA statute emphasizes that the laws shall be construed in accordance with their social end, the demands of the common good, the individual and collective rights and duties and the special condition of the child and adolescent as a developing person (art. 6 of the statute). It should be said that, in their capacity as actual rights-bearers at a special stage of development, children and adolescents will not only have a guarantee of absolute priority, inspired by the fact of being of higher interest, but will have the right to special protection, in view of their vulnerability.

C. Rights to life, survival and development

121. The statute lays down in article 3, that “the child and adolescent enjoy all the basic rights inherent to a human being, without detriment to the integral protection provided for by this law, guaranteeing them, by law or other means, all the opportunities and facilities, to allow their physical, mental, moral, spiritual and social development, under conditions of freedom and dignity”.

122. In relation specifically to life and survival, the statute establishes in article 7, that “the child and adolescent have the right to the protection of life and health, through the implementation of public social policies which allow birth and healthy and harmonious development, under dignified conditions of existence”.

123. The enforcement of these rights runs into serious obstacles in the Brazilian situation. Despite the cultural changes that have been taking place in terms of viewing the child and adolescent as developing human beings and rights-bearers, the progressive legislation directed at their protection and the considerable efforts by the Government and society, fulfilment of this principle is still far from being achieved.

124. The lives of a great number of children and adolescents are marked by poverty, difficult access to and deficient quality of public services, under-age employment and exposure to situations of violence. The Government is endeavouring itself to reverse this situation, through its economic policy, social policies and legislative and administrative measures.

125. In 1994, the Government of Brazil introduced an economic plan, known as the Real Plan, which was designed to stabilize the Brazilian economy by combating inflation and balancing public accounts. These objectives were achieved and with constant tuning, resulting from changes in the world economy or domestic questions, stability has been maintained.

126. A recent study⁶ shows that the percentage of poor people in the Brazilian population declined from 39 per cent (62.5 million) in 1977, to 34 per cent (50 million) in 1998, stabilizing at this level. The Real Plan had an undeniable influence on this decline, reducing the maladies of income concentration, yet not sufficiently.

127. According to IBGE, the proportion of children and adolescents living in a poverty situation, in families with an income of up to half a minimum wage, in 1989, was 50.5 per cent, while in 1995 it was 40.4 per cent. In the north-east region, 63.3 per cent of children lived in this type of family, while in the south and south-east regions, the proportion was around 26 per cent.

128. However, the mark of social inequality in Brazil still manifests itself, for example: (a) when one verifies that in 2001, only about 45 per cent of the homes of families that earned up to half a minimum wage had mains water supply, a sewage system and garbage collection; (b) through a Gini index of 0.572 in 2001.⁷ This clearly shows that there is still a lot to do to ensure that everyone in Brazil has a minimum civilized standard of living.

129. In the last decade, Brazil has undergone considerable and varied changes in the demographic, political and macroeconomic fields, and in terms of State reform, among others. This has had some effect on the situation of children and adolescents. To tackle the

difficulties that persist has been a constant concern of the Governments and society during these last 10 years. Some examples of these efforts are: (a) the progressive coming together of the Government sector and representatives of civil society in the furtherance of social policies, allowing a better interaction and integration of social assistance initiatives; (b) the Minimum Income, Scholarship and Food Grant Programmes, which transfer public resources in money to poor families; (c) the Community Health Workers Programme (more than 150,000 workers in 4,662 municipalities) and the Family Health Programme (more than 11,000 teams in the Programme all over Brazil); (d) the projects of the Community Solidarity Programme directed at combating poverty and social exclusion; (e) the Programme for Eradicating Child Labour; among others.

D. Respect for the child's opinion

130. The 1988 Charter establishes in the field of basic rights and guarantees, freedom of expression, but anonymity is not allowed. It also means being free to express intellectual, artistic, scientific and communication activity.

131. Article 16 of the statute guarantees the child the right to freedom of opinion and expression, among other rights. The child that is capable of making his own judgements will be guaranteed the right to express his opinions freely concerning all matters related to his interest. Such opinions will be duly considered according to the child's age.

132. The child will have the opportunity to be heard in every judicial or administrative process that affects him, directly or through a legal representative. When the competent authority determines that the child and adolescent will be placed with a foster family, whenever possible they will be previously heard and their opinion taken into account (art. 28). No adolescent can be adopted without being allowed to express his opinion in respect of such a measure (art. 45). Even in relation to children, it is recommendable that their opinion be taken into account, to which end the judicial authority can make use of the assistance of specialist technicians.

133. In relation to school, the statute lays down that the child or adolescent shall have the right to contest assessment criteria and are entitled to appeal to higher levels of school authority (art. 53, II, III and IV). Adolescents deprived of liberty have the right to have a personal interview with the representative of the Public Prosecution Service, to petition directly any authority and to meet privately with their defence counsel (art. 124).

134. The important contribution of organized civil society to enforcing the principle of respect for the opinion of the child and adolescent should be stressed. Of particular importance are the efforts of many non-governmental organizations to develop activities that promote juvenile protagonism as an exercise of citizenship. Juvenile protagonism and active participation in the guarantee process are vital to the promotion and defence of the rights of the child and adolescent.

IV. CIVIL RIGHTS AND LIBERTIES

A. Name and nationality

135. Article 12 of the federal Constitution, modified by Constitutional Amendment No. 3 of 9 June 1994, establishes that native-born Brazilians are: those born in the Federative Republic of Brazil, even if born to foreign parents, provided that the latter are not in the service of their country; those born abroad to a Brazilian father or Brazilian mother, provided that either of them is in the service of the Federal Republic of Brazil; and those born abroad to a Brazilian father or Brazilian mother, provided that they come to reside in the Federal Republic of Brazil and opt, at any time, for Brazilian nationality. Naturalized Brazilians are: those who, in accordance with the law, acquire Brazilian nationality, the only condition required being residency for one uninterrupted year and moral fitness for those coming from Portuguese-speaking countries; foreigners of any nationality resident in the Federal Republic of Brazil for more than 15 uninterrupted years and without a penal conviction, provided that they request Brazilian nationality.

136. Paragraph 2 of the same article lays down that the law shall not make a distinction between native-born and naturalized Brazilians, except for the cases provided for in the Constitution itself.

137. The right to a name is a universal public social convention for identifying the human being by peoples and nations the world over. The name of the child and the adult person is a fundamental part of the legal instrument of parentage and identification of the Brazilian, within the sociocultural order and relationship, in both national and international domains. Although recognized as a universal right, the existence of under-registration, (a topic dealt with in the next item) impedes the full exercise of this right.

B. Preservation of identity

138. The statute prescribes in article 10 that hospitals, maternity homes and other health-care establishments, public and private, are obliged to identify the newborn child by recording his finger and footprints and the fingerprint of the mother, without detriment to other regulatory norms established by the competent administrative authority. Such establishments are also obliged to supply a declaration of birth in which the circumstances of the birth and neonatal development are recorded. Non-compliance with these obligations shall subject the offenders to the respective penalties (arts. 228 and 229 of the statute).

139. Thus, these procedures (foot and fingerprints of the newborn and fingerprints of the mother and provision of the live birth declaration, DNV) are adopted in all hospitals and maternity homes in the country, ensuring the identification of all children born on Brazilian soil.

140. The federal Constitution (art. 5) ensures the civil registration of birth and death certificates for all poor Brazilians free of charge. The Statute of the Child and the Adolescent (art. 102) also guarantees the right to civil registration of birth, prescribing that the measures for protecting children and adolescents shall verify that this is duly performed.

141. The civil registration of birth is the first document for the exercise of citizenship, attesting the official existence of the individual. It should be made in a notary public by the parents (the registration can be made by just the mother or the father, with the latter being entitled to be absent from work for one day for this purpose).⁸ In the event that there is no civil registration of birth, the judicial authority, in the light of the available evidence shall provide the registration of birth of the child and adolescent, without any cost and with absolute priority (statute, art. 102).

142. In December 1987, Law 9,534 was passed, which provides for the civil registration of birth for all Brazilians free of charge. According to this law, the first birth certificate and death certificate is free of charge for everyone,⁹ thus ensuring the right to an official civil registration of every child or adolescent, despite the precarious state of the document - printed paper - on which the child's data is entered and registered.

143. Although the law facilitates civil birth registration to the maximum, the number of children and even adults who do not possess a birth certificate is still considerable, particularly on the periphery of large cities, in rural areas and in the lands of the indigenous population. According to the Ministry of Health and IBGE, around 3 million children are born annually in Brazil, of which, up to 2,000, about 20 per cent had no civil birth registration, as seen from table 9 below. This percentage was approximately 30 per cent of live births in the mid-1990s. Besides other implications which limit the exercise of citizenship, this leads to underreporting of births, deaths and other health indicators, hampering the formulation of social policies directed at this age group.

Table 9
Estimate of under-registration of births

Regions	Estimates	Registrations	Children not registered	Percentage
Brazil	3 489 993	2 745 935	752 328	21.32
North	363 459	188 224	175 236	48.21
North-east	1 102 288	709 771	392 517	35.61
South-east	1 319 444	1 236 235	83 210	6.31
South	469 017	415 822	53 195	11.34
Centre-west	243 952	195 783	48 170	19.75

Source: IBGE. Estimate: Celso Simões/2002.

144. The Government of Brazil has been giving great emphasis to the importance of birth registration in the first year of life. In 1999, the National Birth Registration Campaign carried out by the Executive Office of the President of the Republic and CONANDA, which fully publicized the importance of the document, oriented and encouraged parents to seek this right and explained how easy it was to obtain. The creation of birth-registration posts¹⁰ in maternity homes and wards has been one of the ways to facilitate and expedite child registration. The

procedure is simple: the mother or father, in possession of the Declaration of Live Birth supplied by the hospital, goes to the post installed there, registers the child and receives the birth certificate. By mid-2002, there were 51 birth-registration posts in the maternity homes of 15 states in Brazil.

145. An incentive was also introduced for maternity homes associated with the Single Health System (SUS) which provide the birth registration before discharge from the hospital. To this end, a new code (99.085.01-1) was included in the table of payments for special procedures of the SUS, worth R\$ 5, for maternity homes that proceed in this way.

146. As for the recognition by the state of parentage, it is a highly personal, inalienable and imprescriptible right, which may be exercised against the parents or their heirs, without any restriction, respecting the confidentiality of the court (ECA, art. 27).

147. The law facilitates to the maximum recognition of paternity, which can be done at any time, even after the death of the child. Children born out of wedlock can be recognized by the parents, jointly or separately, in the birth registration itself, by will, through a legal document or any other public instrument, no matter the origin of the parentage. Recognition can precede the birth of the child or succeed his decease, should there be any descendants (statute, art. 26).

148. It should be remembered that the law guarantees the Brazilian child and adolescent the right to be raised and educated in the family home and exceptionally in a substitute family, with the right to family and community life ensured (ECA, art. 19).

149. When extended education occurs in schools or similar institutions, the question of preserving cultural identity and social traditions is given priority; the socializing process reinforces the values, character and personality of the learner.

C. Freedom of expression

150. Freedom of expression is a right established by the Brazilian federal Constitution. Its free and unimpeded manifestation, represented in its various forms, is also an express guarantee, in accordance with article 5, paragraph IX of the Constitution, which determines that the expression of intellectual, artistic, scientific and communication activities shall be free, independently of censorship or permission.

151. The ECA statute explicitly states, in article 16, that the child and adolescent are guaranteed freedom of expression. The said text states that the right to freedom comprises, among others, the following aspects: opinion and expression and participation in political life, according to the law. Brazilian legislation gives the adolescent aged between 16 and 18 the choice of voting in all electoral processes and makes it compulsory for all Brazilians aged between 18 and 70.

152. Brazil today is a representative democracy with universal suffrage, regular elections and mandates and active electoral courts, and also making use of electronic polling stations. There are about 115 million voters, of which 2 per cent are adolescents between 16 and 18 years of age. The press is free, in all the different media, however, magazines, publications, videotapes can only be sold or rented to children and adolescents if the age rating is appropriate (statute, art. 78).

153. It should be noted that representatives of civil society stress that, although Brazil is a firmly established representative democracy, the use of the mechanisms of participatory democracy needs to be intensified. The 1988 Constitution establishes the following mechanisms for the direct participation of the will of the people: the referendum, the plebiscite and popular initiative.

D. Freedom of thought, conscience and religion

154. As has already been stressed in the topic related to respect for the opinion of the child and the adolescent, freedom of expression of thought, a pivotal manifestation of the respect for individual liberties, is guaranteed by the 1988 Brazilian Constitution, which lays down, in article 5, paragraph IV, that the expression of thought is free, with anonymity being barred. The right of reply is also protected with paragraph V of the same article prescribing that the right of response, proportional to the offence, besides indemnity for material, moral or personal damage, is guaranteed.

155. In fact, the federal Constitution (art. 5) guarantees all basic liberties: manifestation of thoughts, of conscience and belief; the practise of religion; the expression of intellectual, artistic, scientific and communication activities, independently of censorship or permission; of movement; of peaceful assembly and association.

156. Also in the constitutional area, the Brazilian Political Charter, in article 220, guarantees the expression of thought, declaring that the manifestation of thought, creation, expression and information, in any form, process or vehicle, shall not be subject to any restriction, observing the provisions of the Constitution.

157. The Statute of the Child and Adolescent (ECA) makes it clear, in turn, that the child and adolescent enjoy all the basic rights inherent to the human being (art. 3) and affirms that the child and adolescent have the right to liberty, respect and dignity as bearers of civil, human and social rights, guaranteed in the Constitution and in the laws (art. 15).

158. The statute specifies that the right of the child and adolescent to liberty comprises the following aspects: to go, come and be in public areas and community spaces; opinion and expression; belief and religious worship; to play, practise sports and have fun; to participate in family and community life; to seek refuge, help and guidance (art. 16).

159. Religious freedom is fully respected and religious syncretism is part of Brazilian culture. Even deprived of freedom, the adolescent has the right to receive religious support, according to his beliefs, providing that he so desires (statute, art. 124).

160. It should be mentioned that representatives of civil society point to the persistence of prejudice in many cultural and religious aspects and in terms of social class, which leads to a distancing between the law and concrete social reality.

E. Freedom of association and holding peaceful meetings

161. One of the most important innovations in the Convention is undoubtedly the right of children and adolescents to participate in all questions that concern them, as well as the right to organize themselves for peaceful and legal ends.

162. In the case of Brazil, these rights are expressed in the Statute of the Child and Adolescent. Article 16 of the statute guarantees the child the right to participate in family and community life and political life.

163. It is worth mentioning the participation of Brazilian children and adolescents in their own struggle for their rights in the Constitution, when they submitted a document with more than a million signatures, collected all over the country, to the National Constituent Assembly. At the time the Bill that would result in the statute was passing through Congress, the presence of young people in the nation's capital was remarkable, first during the second National Meeting of Street Children, held in Brasilia in 1989, and the fourth National Conference on the Rights of the Child and Adolescent, in 2001, also in Brasilia.

164. The so-called "juvenile protagonism" was encouraged by various non-governmental organizations and also through more advanced programmes of formal and informal education. Many schools have extremely active student unions. Themes which arouse considerable interest are the ecological movements and sports, for example. The fact that young persons have the right to vote at 16 means that many of them are politically active, joining the youth sections of the political parties.

165. Strategies that lead to young people participating in the community are considered to be of great educational value and constitute a useful and efficient mechanism in preventing violence, substance abuse and the practise of misdemeanours.

166. The Ministry of Justice's National Programme for Peace in Schools, created in 1999 with the aim of reducing violence in schools promotes, in partnership with civil society, social mobilization activities, training programmes for teachers and police who operate in the schools and particularly initiatives that stimulate juvenile protagonism. In this respect the formation of student unions and observatories, the staging of national and regional meetings, publications and other forms of dissemination are all encouraged. Although such practices are still not yet universal, which would be desirable, there is a consensus that they should be implemented in the widest possible way.

167. A significant new development, in relation to juvenile participation was the involvement of young persons in children's conferences, municipal, state and national, dealing with denunciations of the violation of rights, as well as policy proposals and programmes to overcome it. To strengthen juvenile political participation, a proposal was made that this social segment should participate systematically every two years, with the support of the states and civil society, in municipal, state and national conferences on the rights of the child and adolescent.

F. Protection of private life

168. The Constitution (art. 5) guarantees the inviolability of the intimacy, privacy, honour and image of individuals, as well as the inviolability of confidentiality of correspondence and telegraph and telephone communications. The law lays down that the violation of this right can lead to indemnity for moral or material damage. The Statute of the Child and Adolescent (ECA) clarifies that the right to respect signifies the inviolability of the physical, psychic and moral integrity of the child and adolescent, comprising the preservation of image, identity, autonomy, values, ideas and beliefs and personal spaces and objects (art. 17).

169. Legislators also took great care to preserve the right to privacy and not stigmatize the child or adolescent in a situation of conflict with the law. The adolescent who is deprived of liberty is entitled to retain possession of his personal objects and have access to a place for their safekeeping. The adolescent is also entitled to have a personal meeting in private with his counsel (ECA, art. 124).

170. It is forbidden to make public the judicial, police and administrative acts concerning children and adolescents who are charged with committing an offence. Any news concerning the fact cannot indicate the child or adolescent, and it is forbidden to photograph them or to reveal their name, nickname, parentage, relatives and address (ECA, art. 143). Any infringement of these norms constitutes an offence subject to a fine or apprehension of the publication or suspension of the station's programming or publication of the periodical (art. 247).

171. To photograph or publish scenes of sex involving children or adolescents is a crime subject to imprisonment of one to four years and a fine for offenders (ECA, art. 241). In recent years the Government of Brazil has been vigorously combating child pornography on the Internet by means, for example, of a broad campaign on all government sites and in the media in general inviting the public to denounce such occurrences, and also through the dedicated action of the Federal Police, the Public Prosecution Service and the Federal Prosecuting Attorney's Office.

172. The activities of organized civil society in relation to the theme have been concerned with identifying and denouncing places in Brazil where there have been cases of violation of the right to the protection of private life.

G. Access to relevant information

173. The Constitution guarantees access to information to all (art. 5). The child and adolescent have a right to information, culture, leisure, sports, entertainment, spectacles and services that respect their special situation as a developing person (ECA, art. 71).

174. The Public Administration should regulate public entertainment and spectacles informing the general public of their nature, the age groups for which they are not recommended, times and places unsuitable for their presentation (ECA, art. 74). Every child or adolescent shall have access to entertainment and spectacles, classified as suitable for their age group (ECA, art. 75).

175. Magazines and publications designed for the juvenile public cannot contain illustrations, photographs, articles or advertisements about alcoholic beverages, tobacco, or guns and ammunition (ECA, art. 79). Magazines, publications and videotapes containing material improper or unsuitable for children and adolescents must be sold in a sealed wrapper, with a warning concerning the contents. The advertising and presentation of shows must indicate the age group for which it is suitable. Non-compliance with these obligations shall subject those responsible to the penalties of the law (fine, suspension of the show, closing of the establishment, apprehension of the publication) provided for in articles 252 to 258 of the ECA.

176. The right to information is protected in the event of conflict with the law. Adolescents are entitled to full and formal knowledge of the indictment (ECA, art. 111, I) and to be informed of their legal situation whenever they request it (art. 124, IV). It is the duty of the establishment

where adolescents are interned as a result of being deprived of their liberty periodically to inform internees about their legal situation (art. 94, XV). Notification of the sentence that applies in the internment or semi-internment system will be made to the adolescent and his defence counsel and the adolescent shall manifest whether he wishes to appeal the sentence or not (art. 190).

177. In relation to the right to relevant information, representatives of civil society have pointed to the need for the principles established by the Statute of the Child and Adolescent to be observed rigorously by the various sectors of society. In this respect, one should mention the existence of campaigns to get the mass media in general to eliminate from their programming all types of speech, images, cartoons, comic strips, etc. which can promote violence and discrimination of any type, including that related to social inequality.

H. The right not to be submitted to torture or other cruel, inhuman or degrading treatment or punishment

178. The federal Constitution determines that no one shall be submitted to torture or inhuman or degrading treatment (art. 5, III). The practice of torture is a crime whose perpetrator is without the right to bail and ineligible for pardon or amnesty (art. 5, XLIII). There shall be no penalties: of death, except in case of a declared war; of a perpetual nature; of forced labour; of banishment; or of a cruel nature (art. 5, XLVII). The ECA expressly prohibits any form of violence, cruelty and oppression against the child and adolescent (art. 5), as well as any inhuman, violent, terrifying, harassing or embarrassing treatment (art. 18).

179. Since 1989, Brazil has been a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as the Inter-American Convention for the Prevention and Punishment of Torture.

180. The punishment for anyone submitting a child or adolescent under their authority, guardianship or supervision to harassment or coercion is imprisonment for six months to two years (art. 232). The Statute of the Child and Adolescent contains a specific article on the punishment of someone who submits a child or adolescent under their guardianship or supervision to torture. With the introduction of law No. 455 of 7 April 1997, which defines the crime of torture and the corresponding penalties, article 223 of the statute was revoked. According to the new law, the practice of torture is punishable by imprisonment of two to eight years and is increased from a sixth to a third if committed against a child or adolescent. Conviction shall lead to the loss of the position, function or public employment and a ban on exercising such for twice the length of time as the sentence applied.

181. The ECA (art. 263) made alterations to the Penal Code by increasing the penalty applicable in the following offences, if the victim should be a child or adolescent: (a) to harm the physical integrity or health of another; (b) to expose to danger the life or health of a person under one's authority, guardianship or supervision, for the purposes of education, schooling, treatment or custody, whether depriving the person of food or indispensable care or subjecting the person to excessive or unsuitable work, or abusing methods of correction or discipline.

182. Minors under 18 years are held to be criminally incapable for their actions, but from the age of 12 are subject to deprivation of liberty and internment in special institutions exclusive for adolescents. Under no circumstance can the period of internment exceed three years

(ECA, art. 121, para. 3), and solitary confinement of the internee is expressly prohibited (art. 124, XVI, para. 1). The institutions for internment must preserve the identity of the adolescent and offer an environment of respect and dignity (ECA, art. 94, IV). The State has the duty to take care of the physical and mental integrity of the internees (art. 125).

183. Cases of suspected or confirmed mistreatment against a child or adolescent must be communicated without exception to the Guardianship Council, to the Juvenile Court or Public Prosecutor (ECA, art. 13). The directors of primary education establishments have the duty to communicate to the Guardianship Council (or to the authority that replaces it) any cases of mistreatment involving their pupils (art. 56). The doctor, teacher or person responsible for a health or teaching establishment or crèche that fails to communicate to the competent authority the cases that he is aware of involving suspected or confirmed mistreatment against a child or adolescent has committed an offence subject to a fine (art. 245). Remaining silent may characterize the crime of omission and/or connivance.

184. Despite the legal obligation of health professionals and school directors to report to the competent authority cases (suspected or confirmed) of domestic violence against children and adolescents, the number of denunciations by such professionals is low.

185. In cases of ill-treatment, oppression or abuse practised by parents or the person responsible, the judicial authority can determine, as a precautionary measure, the removal of the aggressor from the common domicile (ECA, art. 130). The judicial authority can suspend or take away legal custody from the parents or person responsible or cancel the guardianship or safekeeping of the child or adolescent (art. 129).

186. In 2001, the Ministry of Justice carried out a wide campaign concerning the right not to be submitted to torture, having created Dial Torture, a free-of-charge telephone service (0800 7075551) operating through a national-alert exchange and 20 monitoring exchanges scattered throughout the country, capable of watching over and investigating occurrences.

187. As for the part played by organized civil society, one should highlight their importance in the process of combating violence, negligence and exploitation of children and adolescents, including their work in the domestic sphere. Besides forwarding denunciations, various organizations run programmes for the protection and rehabilitation of victimized children and adolescents. The Government of Brazil, particularly the Department for the Child and Adolescent of the Ministry of Justice, have been forming partnerships with such organizations and also with the subnational governments, especially involving the Guardianship Councils, assisting them technically and financially.

188. It should also be noted that representatives of civil society have denounced the incarceration conditions of adolescents in some institutions and highlighted, according to the guidelines set forth in the ECA, that it is necessary to stimulate the application, on the part of the competent authorities, of socio-educational measures instead of incarceration. The denunciations presented involve the occurrence of overpopulation in correctional facilities; repression of rebellions; ill-treatment and torture. (In the “adolescents in conflict with the law” section of this report, paragraphs 568-588, one finds additional information on the subject.)

189. Reference to the theme can be found in the document published in 2001 by the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur in question visited Brazil in 2000 (E/CN.4/2001/66/Add.2) at the invitation of the Government of Brazil, having been granted broad and free access to all the facilities that he wanted to visit, as well as the power to interview in private anyone he wanted. When making its invitation to the United Nations Special Rapporteur, the Government of Brazil stressed its commitments to the implementation of a human rights policy in the country, which implies eliminating the occurrence of violations in correctional institutions.

V. FAMILY ENVIRONMENT AND OTHER TYPES OF GUARDIANSHIP

A. Direction and orientation of parents

190. The federal Constitution (art. 227) and the Statute of the Child and Adolescent (art. 19) guarantee to the child and adolescent the right to family life. The family, the basis of society, enjoys special protection from the State. The stable union between a man and a woman is recognized as a family unit. The Constitution also recognizes as a family unit the community formed by either of the parents and their descendents (art. 226). The parents have the duty to assist, raise and educate their children while they are minors and the children after reaching majority age should help and support their parents in old age, in need or infirmity (art. 229).

191. There is currently a new conception of family in Brazil. The relationships between parents and children and between the different members of the family group have been altered. The patriarchal organization has been weakened and the woman now has certain rights that were formerly denied her, with a consequent assignment of duties. Spouses now have similar attributions, even though the legal apparatus does not always find its counterpart in daily life.

192. The changes in the Brazilian family are of great importance in understanding the social structure. For this reason, part of contemporary literature seeks to answer the following question: What are the transformations which the Brazilian family has undergone in recent years? The most important changes, according to recent studies by IPEA,¹¹ have taken place in the composition of the nucleus and the periphery, as well as in the size, of families. In the following section, these variations will be commented on in greater depth.

193. The transformations in the composition of Brazilian families have been analysed recently, according to two main types of changes: “those related to the composition of what is called the nucleus and periphery, and those concerning the size”.¹² The term nucleus means the couple and their children (natural or otherwise), while periphery refers to all the other members of the family.¹³

194. In terms of the changes related to the composition of the nucleus/periphery, there has been an increase in the heterogeneity of the nucleus and homogeneity of the periphery of families. The nucleus (couple and children) is now more diversified, among other factors, due to a reduction in the number of couples, even though this is still the predominant type, as one can see in table 10 below.

195. The size and composition of families have become more homogenous in comparison with what they were 20 years ago. Generally speaking, not only has the average number of

children (which includes stepchildren and adopted children) gone down, but also the number of persons in the position of “other parent” in relation to the head of the domicile, as is shown in the following table. All this leads to the “formation of a new domiciliary pattern with a proportional increase in minor and different set-ups from the standard model of the nuclear family headed by a couple”.¹⁴

Table 10

**Distribution of people and household arrangements, by type of set-up,
Brazil, 1978, 1988 and 1998 (in percentage)**

Type	1978		1988		1998	
	Persons	Set-ups	Persons	Set-ups	Persons	Set-ups
Couple	86	80	83	76	79	72
Childless couple	6	11	6	11	7	12
Childless couple without other relatives	4	9	5	10	6	10
Childless couple with other relatives	2	2	1	2	2	2
Couple with children	80	68	77	65	72	59
Couple with children without other relatives	62	55	61	54	57	50
Couple with children and other relatives	19	13	16	11	15	10
Female	11	14	13	17	17	21
Childless female	2	5	2	6	3	7
Childless female without other relatives	1	3	1	4	1	5
Childless female with other relatives	1	2	1	2	2	2
Female with children	9	9	11	11	14	14
Female with children without other relatives	5	7	6	8	7	9
Female with children and other relatives	4	3	5	4	6	5
Male	3	6	4	7	4	8
Childless Male	2	5	2	5	2	6
Childless male without other relatives	1	3	1	4	1	5
Childless male with other relatives	1	1	1	1	1	1
Male with children	1	1	2	2	2	2
Male with children without other relatives	1	1	1	1	1	1
Male with children and other relatives	1	0	1	1	1	1
Total	100	100	100	100	100	100
Total (in millions)	110.0	22.5	141.3	33.3	158.1	41.9

Source: (Medeiros & Osório, 2001:23)¹⁵

Table 11
Proportion of population according to the relationship
with the head of the household, Brazil, 1978 to 1998

Year	Head	Spouse	Child	Other	Aggregated	Pensioner	Domestic	Domestic's Relative	Total
1978	20.5	16.4	51.7	7.8	1.1	1.6	0.9	0.04	100.0
1979	20.2	16.0	51.5	8.1	0.6	2.5	1.0	0.04	100.0
1981	21.8	17.0	52.1	7.6	0.5	0.3	0.6	0.04	100.0
1982	22.3	17.4	51.4	7.5	0.5	0.2	0.6	0.04	100.0
1983	22.6	17.5	51.4	7.3	0.5	0.2	0.6	0.03	100.0
1984	22.8	17.6	50.8	7.5	0.5	0.2	0.6	0.04	100.0
1985	23.1	17.7	50.7	7.3	0.4	0.2	0.6	0.03	100.0
1986	23.0	17.7	50.1	7.8	0.5	0.2	0.6	0.04	100.0
1987	23.3	17.8	49.4	8.2	0.5	0.2	0.6	0.03	100.0
1988	23.6	17.9	49.1	8.2	0.5	0.2	0.5	0.04	100.0
1989	23.9	18.0	48.7	8.2	0.5	0.2	0.5	0.04	100.0
1990	24.2	18.3	48.4	8.0	0.5	0.2	0.5	0.04	100.0
1992	24.8	18.5	47.3	8.4	0.5	0.1	0.4	0.03	100.0
1993	25.0	18.5	47.0	8.5	0.5	0.1	0.4	0.03	100.0
1995	25.6	18.7	45.9	8.8	0.5	0.1	0.4	0.02	100.0
1996	25.8	18.8	45.4	9.1	0.4	0.1	0.4	0.03	100.0
1997	26.1	18.8	45.0	9.2	0.4	0.1	0.3	0.03	100.0
1998	26.5	19.0	44.5	9.2	0.4	0.1	0.3	0.02	100.0

Source: Special Tabulation by IPEA, based on microdata from the PNAD/IBGE.

196. The growth of families composed either of a woman or a man and their children (single parent) has been due mainly to divorce or widowhood. The phenomenon is predominantly female, since men tend to remarry when they separate or become widowers. Besides the drop in fecundity, the reduction in the size of families can be attributed to other factors such as separation, children who start to live in their own household or elderly persons who are less likely to join other family members in their old age.

197. Due to economic need and also because of their own personal projects, women have started to exercise functions in the formal and informal labour market. In some social strata there is a greater concern about family planning. In such strata, therefore, the family has been slowly witnessing a reduction in the number of its members.

198. Child custody is exercised on an equal footing by the father and the mother, either of them being entitled in the event of any disagreement to appeal to the judicial authority to resolve the dispute (Statute of the Child and Adolescent, art. 21). The parents have the duty to support, protect and educate their children while they are minors (federal Constitution, art. 229 and ECA, art. 22).

199. Many Brazilian adolescents from low-income families prematurely assume their own independence, with the parents no longer significantly influencing their education. Very often there is also an inversion of the legal logic, with children and adolescents starting to support their families.

200. The competent authority will apply protective measures to the child and adolescent whenever the rights recognized by law are threatened or violated through the absence, omission or abuse of the parents or person responsible (ECA, art. 98). In accordance with article 129 of the ECA, the following measures may be applied to the parents or persons responsible:

- Compulsory attendance at an official or community family counselling programme;
- Inclusion in an official or community programme for aiding, guiding and treating alcoholics and drug addicts;
- Compulsory psychological or psychiatric treatment;
- Compulsory attendance at guidance courses and programmes;
- Obligation to enrol the child or pupil in the regular school system and monitor school attendance and assiduity;
- Obligation to submit the child or adolescent to specialist treatment;
- Warning;
- Loss of safekeeping;
- Removal of guardianship; or
- Suspension or removal of custodial power.

201. In the event of any unjustified non-compliance with the duties and obligations in relation to minor children, the judicial authority can decree the suspension or loss of child custody (ECA, art. 24).

202. The lack of material resources does not in itself constitute a sufficient motive for the loss or suspension of custodial power. If no other motive exists, which in itself would authorize the decreeing of the measure, the child or adolescent will be maintained in his family of origin, which will be compulsorily included in official assistance programmes (ECA, art. 23). The statute emphasizes this concern, seeking, through the creation of Guardianship Councils and other bodies, to orient, support, and find appropriate solutions for each family.

203. In relation to this question, it should be added that representatives of civil society highlight the need to form a policy guideline in Brazil which can promote the family, so that it can fully exercise its duties to children and adolescents in line with new developments in contemporary life. They equally stress that the family set-up found in recent years has had some de-structuring impact on the social and personal relationships of children and adolescents, both in the domestic area as well as other aspects of their lives: the neighbourhood, the school, institutions in which they take part, etc. Such a phenomenon is contributing toward an increase in aggression and violence.

B. Responsibilities of the parents

204. Parental authority is a social function and forms part of a series of instrumental factors structured to ensure the fulfilment of duties and enforcement of rights. It is a common function of both parents and has the objective of fully protecting their children. The title to parental authority is conferred on both the parents, whether they are married or not, although in the latter case, it is required that the father has recognized the child. The exercise of parental authority falls to the mother and the father jointly or to one of them, in the absence of the other. The parents should, in principle, be capable of fully exercising parental authority over their minor children in personal, educational and maintenance areas.

205. According to Dalmo de Abreu Dalari, an important Brazilian jurist, "The family is juridically responsible for the child and adolescent, but at the same time, also has responsibility to the community and society. If the family fails in fulfilling its duties or acts in an improper way, it can cause grave harm to the child or adolescent, as well as everyone that benefits from their good behaviour and who might suffer the adverse consequences of possible psychological or social maladjustment."

206. Brazilian legislation includes the international norms related to the rights and protection of the family and the child, emphasizing the action of the State in relation to family care. Thus, the State has been implementing a whole series of interrelated initiatives, such as the Guardianship Councils, the rights and funds councils, directed at the child and adolescent. All the institutions related to childhood - the executive, judiciary, NGOs and the community - should work together in an integrated way, respecting the differences and attributions of each.

207. In relation to this question, it should also be mentioned that representatives of civil society stress that the implementation of both Government and non-government policies, directed at the child, adolescent or family, is highly fragmented. The multiplicity of guidelines does not produce the necessary unity to ensure the special development of childhood and adolescence in Brazil, particularly when faced with the breakdown of family ties and relationships.

C. Separation of the parents

208. Brazil has been witnessing in recent decades a constant increase in separations among couples, which has had a significant influence in the lives of children. The question is being studied, both from the academic point of view and in practice, in an interdisciplinary way, in an attempt to understand the problem better and assess its consequences.

209. Recent research has drawn attention to the continuous stress which many families are up against after separation and divorce. Some of this stress is rooted in convergent social and economic questions which the communities are struggling to deal with, particularly those related to the serious economic disadvantages of women and children after family rupture.

210. There are no national statistics available concerning the number of families involved in judicial disputes related to custody and visiting rights. In Brazil, child custody comes under the Civil Code and the Statute of the Child and Adolescent. In this respect, the higher interest of the child at the expense of that of the adult prevails in the legislation, which stresses the importance of the child living a common life with both the parents. In some locations, there are psychologists and social assistants in the family courts who guide and aid families in the search for a more adequate way of dealing with the children.

211. Nowadays there is a growing recognition, mainly among mental health and law professionals, of the need to study and classify the repercussions of separation, divorce and family disruption. Among these, neglect and the various forms of abuse and mistreatment of children are all too common.

212. Mediation in the family law area has attracted the attention of groups of scholars in Brazil. In various Brazilian states there are specialized centres for family counselling. These interventions are designed to foster the self-determination of the family, helping it during a crisis to find a solution that meets the needs of their children and also their own.

213. In extreme cases, which involve risks to the child or adolescent's integrity, such as neglect, ill-treatment and sexual abuse, with evidence of psychosocial malfunctioning of the parents, the judge can decree the suspension or loss of custodial power.

214. The daily consequences of these contemporary situations reflect on the relationships, equilibrium and performance of children and adolescents in their school life, in the family itself, and among their group of friends. Very often it leads to abnormal or even wrongful behaviour, which affects the network of everyday relationships and might even lead to substance abuse or practice of violence, placing children and adolescents in a situation of personal and social risk.

D. Family union

215. Today in Brazil, there are successive efforts, both at the municipal level and at the state and federal levels towards trying to preserve family ties, once the children, for different reasons, are separated from family life. In the case of children and adolescents who are separated from one of their parents when the couple separate or divorce, the legislation provides for systematic meetings between them and the party they were separated from, in an effort to preserve family ties.

216. In situations of extreme family disorganization, which can endanger the integrity of the child and adolescent, the policy is to separate the children from the parents temporarily. It is recommended, however, that fraternal ties be preserved and family life and organization be re-established. Professionals in the field should expedite the social and juridical processes to define the situation of each child, as it is known that prolonged separations cause serious harm. Experience shows that the sooner the intervention of the State and the community occurs, the greater the chance that families do not disintegrate.

E. Illegal travel and illegal retention

217. The movements of an adult person in Brazil, as laid down by law, are free; they may freely enter the country, remain in it and leave it (federal Constitution, art. 5, XV). Regarding children and adolescents, however, the Statute of the Child and Adolescent regulates the cases in which they can travel unaccompanied.

218. Authorization for international travel is granted by the judicial authority and is indispensable when the child or adolescent is travelling unaccompanied. In cases where travelling occurs in the company of one of the parents, the authorization of the other is required, in a document certified by a notary public (ECA, art. 84, II). This determination is designed to protect the child and adolescent and prevent them from being taken out of the country in situations of family breakdown.

219. These measures are strictly controlled by the Federal Police in frontier regions, ports, highways and airports. As Brazil is a continent-sized country, in some cases of abduction and kidnapping among family members, particularly when the union involves competing claims from another nationality, it is difficult to exercise this control.

220. The Ministry of Foreign Relations, together with the judicial authorities, have dealt with the cases submitted to them, through the action of the Brazilian diplomatic corps overseas (embassies, consulates, etc.).

221. To combat the illegal transfer of children and adolescents and their retention abroad, the Brazilian State issued Decree 3413 on 14 April 2000, concerning the Convention on Civil Aspects of International Child Abduction.¹⁶ Article 1 of the said Convention explicitly states that the objective is to ensure the immediate return of children illegally transferred to any signatory State or improperly retained therein and effectively enforce in the other signatory States the rights of safekeeping and visiting found in one signatory State.

222. Article 7 of the same Convention establishes that the signatory States shall take every measure, among other objectives: to locate a child transferred or retained illegally; to prevent any further harm to the child, or prejudice to the interested parties, taking or ordering preventive measures to be taken; to ensure the voluntary delivery of the child or facilitate an amicable solution; to institute or propitiate the opening of a judicial or administrative process to obtain the child's return or, as the case may be, which allows the arrangement or effective exercise of visiting rights; and to ensure on the administrative plane, when necessary and opportune, the safe return of the child.

223. The same Convention also guarantees the right to institute a petition procedure for the return of the child. Article 8 lays down that any person, institution or agency that considers a child to have been transferred or removed in violation of a right of safekeeping can report the fact to the central authority of the state where the child normally resides or the central authority of any other signatory State, so that assistance is rendered to ensure the return of the child.

224. Federal Police Directive No. 815 of 28 July 1999, instituted a registration certificate for national and foreign organizations that work with the international adoption of Brazilian children and adolescents, as well as the respective request forms. Bearing in mind that Brazil is obliged to prevent and repress illegal acts involving international adoption and the illegal transfer of Brazilian children and adolescents abroad, the elaboration of this directive is designed to make registration by national and foreign agencies that work with international adoption an obligatory requirement for them to operate in Brazil.

225. One should add that article 85 of the ECA lays down that “without prior and express judicial authorization, no child or adolescent born in Brazil can leave the country in the company of a foreigner that resides or is domiciled abroad”.

226. Express judicial authorization will result in legally executed international adoptions, the adopted person being prohibited from leaving the country, however, until the legal norms are complied with. Accordingly, Brazilian legislation, in ECA article 239, establishes a penalty of four to six years’ imprisonment and a fine for trafficking children and adolescents.

227. It should be observed that representatives of civil society stress that, despite all the legal provisions, unsolved cases involving children and adolescents still go missing in the country.

F. Payment of food support

228. The obligation to provide food has both an ethical and juridical meaning, as human beings, in view of their very fragility, come into the world without being able to support themselves and have to go through a long learning and training process as an individual. The child, therefore, needs the protection and support not only of the parents and family but also the community, in order to be able to develop as a person.

229. The Inter-American Convention on Support Obligations¹⁷ was promulgated in Brazil through Decree 2.728 of 17 December 1997. This Convention has the objective of determining the law applicable to food support, as well as international legal cooperation and competence, when the food creditor is domiciled or normally resides in a signatory State and the food debtor is domiciled or normally resides and has his assets or income in another signatory State. The Convention applies to food support obligations for minors considered as such and the obligations derived from the matrimonial relations between spouses or ex-spouses.

230. The 1988 federal Constitution sets forth in article 227 that it is the duty of the family, society and the State to guarantee the child and adolescent, with absolute priority, the right to life, health and food. Also in article 5, paragraph LXVII, the Constitution establishes as one of the cases of civil imprisonment for debt, that of the voluntary and inexcusable non-fulfilment of food support.

231. Law 6.515/77, known as the Divorce Law, regulates the cases of dissolving the conjugal relationship and marriage, its results and respective processes and provides for other measures. In article 20, it lays down that for the maintenance of the children, the spouses judicially separated shall contribute in accordance with their resources. The spouse separated from the children is responsible for providing food support.

232. Law 5.478/68 outlines the whole procedure of petitioning for food support, to make it simple and rapid. Article 1 stipulates that the petition for food support shall follow a special procedure, independent of the prior allocation of the suit and the previous concession of the benefit of gratuity by the court. The fact that prior allocation and the previous concession of the benefit of gratuity are not required already shows the intention to make the application for food support simpler and quicker.

233. The Penal Code institutes, in article 244, the crime of failing to provide without a reasonable cause the subsistence of the spouse or a child under 18 years or who are incapable of working or an invalid or sickly parent, not supplying them with the necessary resources or failing to pay the judicially agreed, fixed or increased food support; failing, without reasonable cause, to aid a child or parent who is gravely infirm. The same provision also stipulates that anyone who, being solvent, frustrates or eludes in any way whatsoever, including by abandoning employment or function without any justification, the payment of judicially agreed, fixed or increased food support, shall be guilty of criminal conduct.

234. Brazilian legislation has accordingly strict norms concerning food support. The amount should be fixed according to the needs of the family and the means of the person responsible. The main objective of such maintenance is to guarantee the basic rights of the child, with the courts being responsible for its enforcement. The obligation to provide food support falls within the scope of the family. In some cases, it will extend for a lifetime as, for example, those involving physical and mental disability.

G. Children deprived of family environment

1. Neglected children and children's homes

235. Children deprived of a family environment present development problems and constitute a challenge to society and Government. Furthermore, the problem is aggravated when it occurs in environments where the living conditions, food, education and health are inadequate, and further complicated by situations of domestic violence, mental illness, unemployment, alcoholism and other factors.

236. There is also a very high number of families in Brazil headed by women. In many cases, the woman becomes the only adult responsible for educating and maintaining the offspring. According to IBGE, however, in 1999 there were 7,758,132 women with children residing in private homes in Brazil (PNAD, 1999).

237. The situation of the child placed in a home in Brazil constitutes a serious psychosocial problem, as there are various and simultaneous factors which impair the institution's performance of the substitute role of the family. Babies and infants placed in homes present

development disorders due to the lack of affective care and the premature separation from the mother or person responsible. Childcarers in the home can never be a satisfactory maternal substitute, which for the child means a figure to identify with and a model of behaviour. This leads to the child not interacting adequately with the environment.

238. The collective care of small children separated prematurely from family life very often produces irreversible consequences for their psychic-affective development, since the lack of affective care deeply affects psychic structures.

239. In recent decades, successive Governments have endeavoured themselves to expand the social assistance network for these families, giving priority to basic policies. Investment in the social area can, in the medium term, through the setting up of an open service and educational network, lead to a reduction in the need to provide children's homes.

240. There is no consolidated study in Brazil about the number and the situation of children's homes existing today. A survey in this respect is in its initial stage as part of an agreement between various federal Government agencies which deal with the question of childhood and CONANDA. It is possible, however, to identify a number of successful experiences in reorganizing children's homes programmes, with the introduction of small-sized houses and without any institutional apparatus. The homes, thus conceived, are designed just to substitute parental functions and all the activities of the children and adolescents (education, health, sports, etc.) are supplied by community services. The homes we are familiar with do not have a pedagogic project to guide and cater for children and adolescents, and for this reason CONANDA is proposing to discuss these questions nationally and define parameters for the years to come.

241. Among the protective measures, the possibility of the child remaining in the care of a substitute family has two alternatives: either the family becomes the legal guardian of the child, being responsible for it for a period of time or the child is adopted. Only the judicial authorities can decide on placement in a substitute family.

2. Boys and girls who live and work in the street

242. One of the problems that most perturbs society, in the context of children and adolescents deprived of family life, concerns those that have made the street their survival zone, the so-called "street-children". This problem has manifested itself strongly, particularly since the late 1970s.

243. Various studies and surveys have been carried out in the country in order to estimate the numbers, the causes of the phenomenon and the most efficient methods "to take the children off the street". Today it is known that the number of children and adolescents who actually live on the streets, without any family ties, is much lower than the estimates which put it in the millions. In the city of São Paulo, the largest in South America, for example, a survey carried out by the Municipal Secretary for the Family and Social Welfare showed that about 3,000 children and adolescents frequented the street - but did not live in it - and that only 466 actually lived in the street.

244. The majority of them spend the day on the street, selling small items, sweets and candies, engaging in petty crimes and begging. At night, they return home, many to a family dwelling. However, the situation of those who sleep out on the street in the big cities is dramatic; there they are exposed to all kinds of exploitation, substance abuse and child prostitution. Although the basic cause is related to poverty, other factors equally play a part: ill-treatment and abuse, changes in patterns of behaviour, crises and family ruptures, and the lack of education, sport and leisure compatible with the needs and aspirations of young people.

245. The way of dealing with the problem, prior to the 1988 Constitution and the ECA, was marked by repressive action, the rounding-up of children and adolescents and their placement in homes and shelters. Only in the mid-1980s did a group of technicians from the institution then called FUNABEM, with the support of UNICEF, question Government actions, which were not only inefficient but harmful and unjust, and began to look at alternative experiences of childcare that were being carried out in the country under the auspices of non-governmental organizations. The activities of this pioneer group were given the name of the “Project for Community Alternative Care for Street Children” by the *Pastoral do Menor* of the Archdiocese of São Paulo.

246. In 1985, one of the most influential non-governmental organizations for the enforcement of children and adolescents’ rights in Brazil was created: the National Street Children Movement, which together with other human rights NGOs, particularly *Pastoral do Menor*, began to play an important role in elaborating article 227 of the Constitution, the Statute of the Child and Adolescent (ECA) and disseminating the principles and dictates of the Convention. The Movement also made a contribution, through the experiences of its militants, to reformulating public social assistance programmes. The Movement has already staged National Meetings of Street Children, which have been helping to increase the participation of children and adolescents in discussing their own problems and making society aware of the question of children who are excluded and are victims of violence.

H. Adoption

1. National adoption

247. Adoption is a legal and social measure designed to protect the child. It is authorized with a single objective: the higher interest of the child. In Brazil, the judiciary is the only power authorized to carry out this procedure.

248. Adoption is an exceptional measure which should be provided to any child in a personal and family situation which justifies it, without detriment to the child’s individual characteristics, or to any social, racial and cultural situation or physical and mental health problems. It is an exceptional measure, since priority should be given to the child’s right to remain in his family of origin. Adoption, placing the child in an environment outside the original family, is thus the last resort, and the child’s harmonious development within the family of adoption must be guaranteed.

249. The 1988 Constitution guarantees adopted children the same rights and duties laid down for biological children, including the right to family name and inheritance (art. 227, para. 6). It is, therefore, the legal alternative for guaranteeing children the right to affective ties and references which allow them to join a new family lineage.

250. A child can only be adopted after all the legal processes have been concluded, including a judicial decision in respect of the loss of custodial power executed by the court or with the voluntary consent of the parents. In the latter case, the parents' decision should be declared in a judicial proceeding and ratified by a judge.

251. To make an adoption, it is necessary to know the candidates, their motivation, their way of life, personality, conjugal and family situation, as well as their place of residence, etc. Once the psychosocial study has been completed, the judge will pass sentence on their suitability and the candidates will be registered while they await the judicial decision. The adoption team shall only propose adoption for children whose family ties have been juridically severed.

252. Whenever there is a convergence of interests between qualified candidates and children or adolescents eligible for adoption, the team shall formalize a proposal, providing data on the child's background, sex, age, race, health, schooling, etc. This is the time when the manifest desire of the candidates and the child or adolescent's situation are matched together. Brazilian law lays down that, at 12 years, the child shall express his feelings towards the adoption. Post-adoption monitoring is carried out through interviews with parents and children.

2. International adoption

253. The International Convention Relative to the Protection of Children and to Cooperation on the Subject of Intercountry Adoption, concluded in The Hague on 20 May 1993 and which came into force in Brazil through Decree 3,087 of 21 June 1999, deals with cooperation between the country where the process of adoption is made, that is to say, where the child or adolescent lives (country of origin), and the country where the child or adolescent is going to, that is to say, the country of origin of the adopting couple (country of destination).

254. The Hague Convention seeks through a standardization of procedures and legislation, legality and transparency in adoption processes, particularly those involving international adoption, to ensure full rights and the exercise of such to all adopted children. The Convention derives from the perception that the unilateral initiatives adopted by States are inadequate. Besides the International Convention on Cooperation, the Brazilian State has also adopted the Inter-American Convention on Conflict of Laws concerning the Adoption of Minors. This Convention was promulgated by Decree 2,427 of 17 December 1997.

255. International adoption is an exceptional measure after all attempts at adoption in the country of origin have been exhausted, and thereby guaranteeing the right of the child to live in his own country (Statute of the Child and Adolescent, art. 31).

256. Candidates for adoption should find the competent authorities in their respective home countries and undergo a psychosocial study. Such a study shall assess among other things, the capacity of the candidate family to assume the responsibility of caring for the child on a satisfactory and enduring basis. After selection, they will receive from the central authority of their own country authorization to adopt in a foreign country.

257. The procedures for receiving dossiers from foreign candidates in Brazil are not the same in all the states of the federation. There are four basic ways of applying:

- The foreign candidate sends the dossier to the state judiciary adoption committee (CEJA) of the Brazilian State selected;
- The foreign candidate sends the dossier to a lawyer who, in turn, represents him vis-à-vis CEJA;
- The international associations, previously accredited in the Central Authority in Brasilia, submit the dossiers to the CEJAs; and
- The state signs an agreement with international adoption associations previously accredited by the central authority in Brasilia. The dossiers of children available for adoption are sent to the country of domicile of the parents. These associations then have the task of locating the family that is considered to offer the best conditions for adopting that child.

258. Preparing the child and the family for adoption allows them to realize what the implications are, among which the changes that might occur and the possible difficulties to be faced as, for example, the first steps in the adoption procedure.

259. The meeting between foreign adopters and adopted child takes place in Brazil over a period of 15 days for a child under two years of age and 30 days for older children. The legislation prohibits adoption through powers of attorney, the presence of both the spouses being required. During the getting-to-know stage, the adopters receive provisional safekeeping and are accompanied by the respective adoption teams, with the aim of observing, assisting and advising on the interaction between parents and children.

260. Foreign associations, through qualified services, should send post-adoption monitoring reports on the development, adaptation and possible difficulties of the family and child in the new country of domicile.

261. In recent years, a growing number of adopted persons have been interested in knowing about their biological antecedents and personal history. For this reason, it is of the utmost importance that the adoption services maintain a document storage system which contains this information. The stage of inquiring about antecedents should be accompanied by qualified professionals.

262. It should be reported that representatives of civil society point to the occurrence of repudiations of international adoptions made illegally by legal guardians. It should also be stressed that despite the tendency on the part of control and inspection agencies, as is the case of the Guardianship Councils, to give preferential treatment to domestic adoptions, this has not always been the case.

I. Periodic examination of internment conditions

263. On this question, Brazilian legislation is innovative and establishes that government and non-governmental organizations responsible for children's homes will be inspected by the judiciary, public prosecution service and Guardianship Councils. This means to say that the Children's Court judge responsible for judicial guardianship should verify, in conjunction with the public prosecution service and civil society that the care provided by agencies responsible for children and adolescents is adequate.

264. In article 96 of the Statute of the Child and Adolescent (ECA), investment and disbursement plans will be submitted to the state or municipality, according to the origin of the budget allocations. The ECA is innovative in demonstrating the concern of legislators with the efficiency of the norm, which depends on the good faith of those investing the resources.

265. Inspection by the competent agencies also has the objective of observing the conditions found in children's homes, the pedagogic, psychological, and medical care programmes, and also staff training, with a view to providing comprehensive care to the child and adolescent temporarily or permanently deprived of family life.

266. The ECA provides penalties for institutions that do not comply with legal provisions. According to article 191 of ECA, the procedure for verifying irregularities in a government and non-governmental organization shall be instituted by judicial authority or on the initiative of the public prosecution service or the Guardianship Council. If there are serious reasons for such, the judicial authority, after consulting the Public Prosecution Service, can issue a preliminary order for the temporary dismissal of the director of the respective organization. The penalties range from a fine and warning to the provisional or final dismissal of the director of a government agency (art. 193).

J. Abuse and neglect, psychological recuperation and social integration

267. Nowadays, a lot is said about violence against the child and adolescent, as it very often takes place within the family itself, sustained by a "pact of silence" which includes a large number of victims. Physical, sexual and psychological violence causes serious harm to a person's development, which may impair the capacity for affective relationships and integral development.

268. The intervention of society in this drama presupposes clinical and psychological care and juridical and social measures to protect the victim. The care in such cases should be multidisciplinary and revolve around the victim and family members, as affective ties play a vital role in the psychic life of the child. In this way, the treatment aims at interrupting the transgenerational phenomena of abuse, mistreatment and negligence.

269. Other factors like poverty, bad income distribution, absence from school, child labour, slave labour, lack of leisure, among others, are forms of structural violence against the child, hampering his development.

270. Many adolescents, particularly girls, are obliged to sell their own body as if it were a product and, as a consequence, are subject to premature and unwanted pregnancies and a high number of sexually transmitted diseases. This question has been denounced as sexual exploitation throughout the country.

271. In certain large Brazilian cities, children and adolescents are used by organized crime and the drug traffic. In this way, they become collaborators and members of criminal gangs. According to a UNESCO study,¹⁸ 70.3 per cent of deaths among children and adolescents in 2000 were due to violent causes. Although Governments are trying to put a stop to such practices in certain regions, like the city of Rio de Janeiro, the situation is proving very difficult to control.

272. The federal Constitution and the ECA legislate on the responsibility of the family and the State, as well as the guarantees of the basic rights of the child and adolescent and on the punishment in cases of abuse, violence and sexual exploitation. The law also provides for the removal of the aggressor from a shared home, thus avoiding the need for placement in an outside institution (ECA, art. 130).

273. The community has an important role in identifying and preventing violence against the child, since the ECA (art. 13) determines that in cases of suspected and confirmed mistreatment against the child and adolescent, it is obligatory to communicate such occurrences to the competent authorities. Article 245 also provides for punishments for childcare professionals that fail to do so. In this way, the “pact of silence” is broken.

274. The states of the Federation are in the process of organizing specialized care services with a view to providing proper treatment for the victims. Universities and research centres have been studying and diagnosing the situation, suggesting protective measures, orienting public policies and training professionals that work in the area.

275. There exists a series of services in Brazil organized according to the resources of each State and municipality, such as: maltreatment committees in paediatric hospitals, Dial-Denunciation, Legal Aid Services for Children, etc., but which are still not fully used, either due to lack of information or omission.

276. Serious situations are reported to the authorities: the Public Prosecution Service or the judiciary. A psychosocial and psychiatric study carried out by professionals assists the judge on the appropriate course to take. Many of these cases involve loss of custodial power and the children are sent for adoption or some other type of solution (extended family, children’s home, etc.).

277. Concerning this question, it should be noted that representatives of civil society highlight the importance of providing university or specialized and technical training for all state employees or NGO agents involved in the question, so as to give them the expertise to deal with such complex themes as abuse and neglect, psychological recuperation and social integration.

VI. BASIC HEALTH AND WELL-BEING

A. Children with special needs

278. Brazilian society and the State, in particular, have been organizing themselves to face the challenge of increasing the well-being of children and adolescents with special needs. The special protection of children and adolescents in these circumstances finds support in the federal Constitution, in the Statute of the Child and Adolescent, in Law 7853/1989 and in Law 8.462/1993. In terms of government policy, there are prevention and specialized assistance programmes, as well as social integration programmes.

279. It is important to put the concept of special needs and its consequences on the well-being of persons that have them in its proper context. It is equally important to identify the different forms of intervention: those that are brought to bear on the causes, which are preventive and prior, therefore, to the presentation of the problem; direct intervention to correct or attenuate an existing problem; and interventions that seek to increase the well-being of persons already with special needs. Although different, they are complementary actions.

280. The concept of special needs arises from the impossibility of the individual to carry out certain tasks considered basic to a full social life. The well-being of the person with special needs is not only conditioned by the degree of special needs, but above all by how society deals with the question of special needs. Thus, for example, a paraplegic person can lead a full social life, provided that he has locomotion facilities to go to and move around inside the places that he or she wishes to visit, and is welcome without prejudice in the family, work and leisure environments.

281. Public policies should, therefore, always move in two concomitant directions: on the one hand, to combat cultural and physical barriers that can decrease the well-being of people with special needs; and on the other, to promote activities that target the causes. A special needs condition has one or more causes, which might be biological (prenatal, perinatal and post-natal) and external (accidents).

282. In relation to combating cultural and physical barriers, the last decade has proved to be extremely promising, with the following events being of particular importance:

- The 1988 federal Constitution gave greater protection to the rights of persons with special needs;
- Institutionally, CORDE (National Coordination for the Integration of Persons with Special Needs) was created, whose aim is to coordinate sectoral policies and promote greater integration of disabled persons;
- The inclusion of questions on special needs in the 1991 and 2000 demographic census, to provide more data on this segment of the population;
- The foundation of CONADE (National Council for the Rights of Persons with Special Needs) as well as state and municipal councils, opening up a channel of communication between the agents involved in the sector, including civil society;

- In 2002 a soap opera on the TV station with the highest audience rating tackled the issue of Down's syndrome, looking at the possibilities of social integration of sufferers, helping to reduce prejudice towards the problem;
- In 2000 two federal laws were passed (10.048 and 10.098), which require the elimination of physical and architectural barriers for the access and use of persons with special needs to public buildings, means of transport, financial institutions and public toilets. Law 10.098 requires that municipalities include these norms in their respective municipal building codes; and
- In the educational and pedagogic policy area, efforts are being made in favour of a more inclusive education for persons with special needs in the regular school system (see section of the report on education).

283. Given the vulnerability of the human being from conception up to approximately 6 years of age, a period which can be decisive in terms of acquiring some kind of special need, public policies in the health area are reverting basically to attacking the causes. In this respect a number of auspicious occurrences should be mentioned:

- Poliomyelitis was eradicated in Brazil in 1994;
- The Single System of Health (SUS) will perform early diagnoses on a compulsory basis to prevent and treat dysfunctions in children, with neonatal screening being of particular importance, which detects situation of risk such as phenylketonuria, congenital hyperthyroidism, blood diseases and cystic fibrosis; and
- All the programmes directed at pregnant women and childbirth are of fundamental preventive importance (detailed data in "Basic health and healthcare services" section of this report).

284. A system of consistent and periodic information concerning persons with special needs is of vital importance, both for monitoring the condition and how it develops (the degree and characteristics) and to study the efficiency of the above-mentioned policies. In this respect, the demographic census (the only periodic home survey with information on persons with special needs) represented a big change in the last decade in terms of identifying the situation of persons with special needs in Brazil.

285. The 1991 census is considered to have underestimated the scale of the problem by recording only accentuated levels of special needs (deafness, only cases where the person is totally deaf; blindness, only cases where the person is totally blind; and so forth). Using a different methodology the 2000 census seeks to deal with the question in the widest possible way, and thus tries to include extremely reduced forms of special needs as, for example, the existence of some permanent eyesight difficulty (the simple need to wear glasses can, for example, be thus interpreted by someone answering questions in the 2000 census).

286. Table 11 below shows the impact of these changes and of the need to work cautiously with both the censuses simultaneously. The methodological difference imposes serious difficulties on any attempt to compare the data and make any attempt to characterize the evolution of the situation in the period covered by this report highly problematic.

287. The 2000 census data shows that about 24.5 million Brazilians, that is to say 14.5 per cent of the population, suffer from some special need which, as was noted above, might be mild, more accentuated or severe. It should be mentioned that the total given in table 11 (34,475,254) does not mean the number of people, as one person may have more than one special need. In the 2000 census, the number of people that present at least one special need is 24,537,984.

Table 11

Population with special needs, by type of special need^a - 1991 and 2000 censuses

Type of special need	1991 census	2000 census
Visual deficiency	145 854	16 573 937
Hearing deficiency	173 581	5 750 809
Tetraplegia, paraplegia or permanent hemiplegia	457 177	955 287
Lack of members	145 178	466 936
Locomotion deficiency	-	7 879 601
Mental deficiency	658 911	2 848 684
Total occurrences ^b	1 580 701	34 475 254

Source: IBGE.

^a For the 2000 census the first three alternatives were used.

^b The total does not represent the number of people, as one person may have more than one special need.

In the 2000 census, the number of people who presented at least one special need was 24,537,984 (14.5 per cent of the population).

288. Table 12 below shows the distribution of children and adolescents, by type of special need and age group for the 1991 census. In the 0 to 6 age group, children with some kind of mental disorder account for 46.3 per cent of persons with special needs, while infantile paralysis accounts for 23.2 per cent. In the subsequent age groups, special mental needs are more significant, 57.3 per cent and 57.6 per cent, respectively. It should be stressed that many of the

special mental needs are only perceived at a more advanced age, because it is mainly when the child starts to attend school that such disturbances are noted, hence the increase in the 7 to 17 age group.

Table 12

**Children and adolescents with special needs, by type
of need and age group - 1991 census**

Special needs	0 to 6	Percentage of age group	7 to 12	Percentage of age group	13 to 17	Percentage of age group	0 to 17	Percentage of age group
Visual	6 880	9.7	6 059	4.8	4 919	3.7	17 857	5.4
Hearing	10 859	15.3	17 291	13.8	15 009	11.4	43 160	13.1
Tetraplegia, paraplegia or permanent hemiplegia	16 509	23.2	25 807	20.6	30 833	23.4	73 148	22.3
Lack of members	3 965	5.6	4 394	3.5	5 160	3.9	13 518	4.1
Mental	32 887	46.3	71 791	57.3	76 054	57.6	180 732	55.0
Total	71 099	100.0	125 341	100.0	131 974	100.0	328 416	100.0

Source: IBGE.

289. The 1991 census has been little disseminated among policy formulators in the special-needs area. Only one study by CORDE, in partnership with IPEA (Institute of Applied Economic Research) and UNDP (United Nations Development Programme), "The disabled person in Brazil - 1991", processed some information from the 1991 census concerning persons with special needs, from various socio-economic standpoints.

290. Unfortunately, at the time this report was produced, the micro-data from the 2000 census were still not available to make a more insightful comparison between the information captured at the beginning and end of the 1990s.

291. It should be mentioned that the measures adopted to guarantee children and adolescents with special needs the right to education are dealt with in the sub-item on "Special Education", which forms part of the section "Education, including professional training and guidance" of this report (para. 427). The sub-item "Non-discrimination", (para. 90) which forms part of the section "General Principles", also presents important information for characterizing the situation. "Social security and services and child shelters", (paras. 400-415) in turn, presents social assistance programmes directed at children and adolescents with special needs.

292. In relation to the representatives of civil society, it should be mentioned that, although recognizing the great advances in this area, they identify special needs in training technicians and specialists to work with the specificity of each type of special need and ensure the full development of children and adolescents with special needs.

B. Health and health-care services

1. The Brazilian health system

1.1. The National Health Policy

293. In Brazil, health is a universal right guaranteed by the Constitution. The Brazilian Health Policy is based on the 1988 federal Constitution, which established the principles and guidelines for health care in the country, provided through the Single Health System (SUS). This system, which was regulated in 1990,¹⁹ makes free, universal and equal access to the activities of promoting, protecting and recovering health its guiding principle. The activities of the SUS are implemented through an interconnected, regionalized and hierarchized network of health services, under the responsibility of the three levels of government: federal, state, and municipal. The SUS also has the following operation guidelines: decentralized management, integrated care services and community participation.

294. To coordinate the activities of the SUS at the three government levels, two levels of negotiating and contracting operate on a regular basis. The first of them, at the federal level, with equal representation of the Ministry of Health and state and municipal departments of health and the second, at the state level, with equal representation of the state department of health and the municipal departments of health in the state.

295. Social participation within the SUS is found mainly in two formal instances: the Health Councils and the Health Conferences. The councils are permanent in character and help to formulate strategies and control the implementation of health policy, including economic and financial aspects. The conferences are held every four years, with the wide participation of all social segments that are interested, with the purpose of analysing progress and deficiencies in the health area and putting forward guidelines for public policies in the sector. The councils and the conferences have representatives from the different levels of government, service providers, health professionals and users, the latter with equal participation in relation to the other segments as a whole.²⁰ The councils are organized at the federal and state levels and in 98 per cent of Brazilian municipalities.

296. The health of the child and adolescent does not constitute a specific theme of the Councils, but occupies much of the councils' concerns and of the different committees that assess and propose strategic guidelines for ensuring the full rights of the Brazilian population. In this respect such rights are dealt with in a wide-ranging way, not being restricted to the assistance field, but involving the broad concept of promoting health, quality of life and the specific protection of health in risk situations.

297. In the 1996-1999²¹ period, the essential objectives in the health area turned again to improving the sanitary hygiene situation - with emphasis on reducing infant mortality - and the political-institutional reorganization of the sector, with a view to streamlining the operational capacity of the SUS.

298. The four-year plan for the subsequent period (2000-2003) reinforces the previous objectives and emphasizes measures that seek to ensure access to health care, humanize the services and consolidate the decentralization process in the management of the SUS.²²

1.2. The institutional organization of the health sector

299. The health-care sector in Brazil is made up of a complex network of services, involving suppliers and financing agencies belonging to the public sector, or linked to the private sector, whose participation occurs on a supplementary basis. About 75 per cent of outpatient and hospital assistance supplied to the population, comes from the SUS,²³ which operates nationwide. The remaining 25 per cent relates to services provided by private profit-making companies and by community and philanthropic institutions. The SUS network comprises its own - government - facilities and private establishments contracted to supply services, which correspond to 80 per cent of the hospital units that make up the SUS. It is estimated that 25 per cent of the Brazilian population are covered by at least one health plan.²⁴ The medical assistance provided by private plans has been subject since 1998 to regulation and inspection²⁵ by a specific federal agency that liaises with consumer protection bodies.²⁶

300. As for basic care, in 1998, a Minimum Healthcare Allocation (PAB)²⁷ was established within the SUS, designed to fund basic level activities. The introduction of the PAB doubled the volume of resources allocated to basic care, and helped to correct distortions in the per capita expenditure on outpatient procedures.²⁸ It also sought to promote the better use of public resources and increase the efficiency of the SUS, particularly in relation to people in situations of poverty that live in the north and north-east regions and in cities in the interior of the country. The PAB consists of two allocations of resources: one fixed, defined by a per capita amount for each municipality; and the other variable, designed to stimulate strategic activities, with an emphasis on family health activities and Community Health Agents, combating nutritional deficiencies, basic pharmaceutical assistance, epidemic disease control, and sanitary hygiene.

2. The health profile and health care in childhood and adolescence

301. Investments in the health area are part of a Government strategy directed at overcoming the poverty and social exclusion that a considerable part of the Brazilian population are subject to, and which has become the path toward constructing a more just and equitable nation. In this respect, the 1990s are marked by a switch in social policy by the Government of Brazil with the aim of eliminating waste and increasing efficiency, promoting decentralization, expanding cover to everyone and, above all, restructuring benefits and services in order to increase their redistributive effect through basic initiatives.

302. The health profile of children and adolescents in the period covered by this report, not only influenced but also was influenced by these social policies and by Government programmes and initiatives implemented in the health area

303. In order to provide a better basis for elaborating this report, as well as to substantiate the analyses of information concerning health care for the child and adolescent in Brazil, a study was conducted by the Ministry of Health, coordinated by specialists from the Osvaldo Cruz Foundation's National School of Public Health, concerning the evolution of the health profile of

this segment of the population. The study in question is presented in a summarized form in annex I, "Study of the Health Profile of the Child and Adolescent in the 1990-2002 Period",* which forms part of this report. The reflections and considerations presented next on the health of the child and adolescent were taken from this study.

2.1. The health of the child

304. An evaluation of children's health in Brazil allows one to identify striking advances throughout the period examined by the present report. Particular prominence should be given to the fact that the great majority of the targets assumed by the Government of Brazil concerning health at the General Assembly's Special Session on Children held in 2001 as a follow-up to the World Children's Summit of 1990,²⁹ were met, attesting the priority given by the country to implementing programmes directed at this segment of society.

305. In terms of the infant-mortality situation, it should be stressed that:

- Mortality in the under-10 age group declined considerably throughout the country. The infant mortality rate witnessed a decline of around 40 per cent in only 10 years, going from 48.3 per 1,000 live births in 1990 to 29.6 in 2000. Results of this magnitude reflect a very considerable effort on the part of the Government and society. Although the decline in infant mortality in the north-east was slightly greater than in the other regions, regional disparities still persist;
- The most significant decline occurred in post-neonatal infant mortality, due in the main to a reduction in deaths caused by infectious intestinal diseases and severe respiratory infections; and
- The decline in the share of mortality caused by diarrhoea, pneumonia and malnutrition in all the geographical regions, associated with malnutrition, lack of sanitation and primary care deficiencies, stood out as an important indicator of the improving health situation of children in Brazil.

306. Striking advances were also obtained in relation to the morbidity indicators and other threats to the health of the child:

- There was a reduction in the occurrence of infectious intestinal diseases and parasitic diseases in the infant population;
- Considerable progress was achieved with immuno-preventive diseases, with a sizeable reduction of all those included in the vaccination calendar, the eradication of poliomyelitis and the interruption of measles transmission in Brazil being of particular importance;
- Neonatal tetanus still persists in Brazil, associated with poverty, particularly in areas in the north and in the north-east. However, the incidence has been declining steadily for more than a decade, with a substantial reduction of cases (94 per cent) in

the 1990 to 2002 period. In 2000 only 41 cases were reported in the country. Much has been done in the areas of greater risk, particularly concerning the intensification of the vaccine against tetanus and the greater agility of the epidemic-control services;

- The decline in protein-calorie malnutrition that was verified resulted in a decrease in the deaths of newborn babies due to retarded foetal growth or foetal malnutrition;
- Anthropometric surveys among children under 5 years in the 1974 to 1996 period show a progressive reduction in chronic undernourishment in the country. In absolute terms, the estimated number of children affected decreased from 3,865,815 to 1,640,493. However, there are significant variations in the rate of decline throughout the country - with a lower rate of decline in the north-east region - which reflects, to some extent, the differentiated process of economic and social development experienced by the macroregions of Brazil. This unevenness is also expressed in the differences between rural and urban areas;
- A significant reduction was recorded in the prevalence of goitre over the last three decades, the current rate in the school population (1.4 per cent) being below the normal limit set by the WHO (5 per cent). This result attests the progress in controlling the deficiency in the last three decades, since the estimated prevalence in a previous national survey was 14.6 per cent;
- The data on buccal health in the school population in urban areas show a marked decline in the prevalence of dental caries, with a reduction in the CPO index (which measures the proportion of caried and lost teeth) from 6.67 in 1986, to 3.06 in 1996; and
- The decline in the prevalence of children and adolescents living with HIV should also be mentioned. This went from 6.3 per cent of total cases in 1991 to 3.7 per cent in 2000. The greatest favourable impact of these data stems from the reduction, around 50 per cent, of the vertical transmission rate (from mother to child), as a consequence of the universal introduction of antiretroviral therapy in 1996. Controlling vertical transmission is particularly important in reducing cases in childhood, since it is the predominant form of exposure in the under-13 age group, responsible in 2001 for 99 per cent of the total number of new cases in the known exposure category. The next challenge, therefore, for reducing the rates of incidence in childhood is to expand the diagnostic coverage of pregnant women - in prenatal care or at childbirth - so as to allow for the immediate introduction of antiretroviral therapy in the mother and other necessary prophylactic measures.

307. The positive changes observed in the child health profile can be attributed in the main to the social policies implemented by the Government, besides a series of specific programmes directed at this segment of the population. Moreover, commencing in the 1970s, and with

greater intensity in the 1980s, the Brazilian State invested in improving basic sanitation and increasing the supply of health services, particularly in the basic network, with a view to bringing the Single Health System within the reach of everyone.

308. It should be added that increasing urbanization, improvements in the education level of women, greater female participation in the labour market and greater access to birth control methods have led to a sharp drop in fecundity, with direct and indirect effects on health and mortality in the first year of life.

309. Despite the substantial progress that has been made, there is still room for an even greater reduction in infant mortality in Brazil. Measures that can impact strongly perinatal causes - the most important category - can be implemented in the basic health-care sphere, particularly in prenatal care.

310. One cannot overlook either the role played by medical assistance provided by the hospital during childbirth. With hospitals providing more than 95 per cent of deliveries nowadays, problems persist concerning the quality of care provided in some regions of the country, as well as deficiencies arising from an inadequate strategy of referencing for risky pregnancies, which require a rapid referral to services of greater complexity.

311. The decentralized structure of the SUS undoubtedly represents a notable advance in universalizing and improving access to health care. It still lacks, however, more efficient and consolidated referencing mechanisms, so as to make certain that services of medium and high complexity, available in more developed municipalities, are more easily accessible to the population of municipalities of smaller size and/or lower per capita income.

312. The registration of a large number of deaths, without specifying the basic cause among infants of under 1 year, demonstrates the lack of medical assistance in some parts of the country. Although a significant decline in this type of registration was observed in the 1990s, in some north-eastern states more than 30 per cent of child deaths do not specify the basic cause.

313. The occurrence, even today, of cases of congenital syphilis in some regions of the country, despite the high national rate of prenatal care and the standardization of simple and efficient diagnostic procedures and prophylaxis available in the public health system, constitutes one more indicator of the varying quality of medical assistance and justifies the need to intensify efforts in this respect.

314. Generally speaking, it can be said that although the prevalence of chronic malnutrition has declined progressively in the last decade, severe levels of malnutrition are still to be found among a significant part of Brazilian children who reside in rural areas and come from a lower socio-economic level in the north and north-east regions. As for the other nutritional problems, such as hypovitaminosis A and iron-deprivation anaemia, there are no population-based data in this respect - their occurrence, however, has been demonstrated in various Brazilian studies. The solution to questions related to diet and nutrition are not restricted to the health area. A number of important strategies have been adopted, however, by the Ministry of Health to tackle the

problem as, for example, the setting up of the Incentive Programme for Combating Nutritional Deficiencies (ICCN), which promotes the nutritional recovery of children from 6 to 23 months, the Food Grant Programme, which transfers resources by means of a magnetic card directly to families with pregnant women and children at nutritional risk, besides implementing more general measures of food enrichment in the country.

315. In terms of the 5-to-9 age group, external causes predominate as a factor of mortality - with traffic accidents and drowning accounting for the most frequent causes - pointing, as a result, to the need for a greater emphasis on prevention policies.

316. It should be noted also that of all the aspects of the child health problem the most crucial one, as evidenced by the epidemiological findings, is the persistence of inequalities in the risk of illness in the first years of life, which points to the need for special attention in this area. The advances achieved in this respect in the 1990s suggest that Government action directed specifically at groups of the population with the greatest risk of illness and death, in a concerted effort with the community and the initiatives of organized civil society, can provide alternatives for tackling the inequality of health conditions among Brazilian children.

2.2 The health of the adolescent

317. The approach to the adolescent health question is much more complex and differs in essential ways from the approach to children's health. The model of health care for the adolescent was reformulated at the end of the 1990s, becoming decentralized, although still interlinked, and with the objective of achieving the interaction of different agencies to provide comprehensive health care for the adolescent. Efforts have been made to ensure the healthy development of the Brazilian adolescent through educational initiatives in health and disease prevention, always in partnership with states and municipalities, in order to not only redefine the risks, but also strengthen the protective factors.

318. A study carried out by the Ministry of Health to provide data for the present report shows that there has been progress in the area. An evaluation of the socio-demographic and epidemiological data related to adolescents shows, however, an extremely worrying picture concerning violence, particularly among male adolescents, and the growth of pregnancy rates in adolescence, particularly in the less favoured socio-economic classes.

319. Adolescents account for approximately 20 per cent of the country's population - if we take the 10-to-19 age group - and they represent 3 per cent of general mortality, with a striking predominance of male deaths due to external causes, particularly in accidents or as victims of violence. Proportional mortality due to external causes in this group progressively increased in the 1980 to 1999 period, from 55 per cent to 68 per cent. One also finds a progressive increase in the annual statistics of adolescent deaths due to homicide in the 1979 to 1999 period: during these 20 years, the number of homicides increased from 1,018 to 6,373, among males and from 212 to 678 among females.

320. The gravity of these data points to the need to reinforce initiatives to prevent and combat this situation, which go far beyond the scope of the health sector. Only integrated efforts by the

different government spheres - both at the federal level and the municipal and state levels - will be able to provide a clear diagnosis of the main causes, outline specific policies to combat them and mobilize the necessary resources and actions to this end.

321. In relation to adolescent pregnancy, the data show that in 1999, 754,000 children were born to girls and adolescents aged 10 to 19 (23 per cent of the total), a higher proportion to that observed in 1996 (22 per cent). About 27,500 live births in 1999 (0.8 per cent of the total) were babies born to girls in the 10 to 14 age group.

322. Besides the social onus - individual and collective - that pregnancy in adolescence represents, the risks and complications related to it are much greater and more frequent, both for the newborn and the mother. The prevalence of low weight at birth among children of mothers in the 10-to-14 age group (13 per cent) was greater than that among children of mothers aged 15-to-19 (9 per cent), which in turn was greater than the national average (8 per cent). In the 1998-2000 period, childbirth represented 20 per cent of the total hospitalizations of the SUS and complications due to abortion 2 per cent. In the 15-to-19 age group, hospital admissions due to childbirth reached 71 per cent, whilst complications from abortion accounted for more than 5 per cent of the total number of hospitalizations. The data related to live births also show that adolescents make much less use of prenatal care than other pregnant women.

323. The problem of pregnancy in adolescence is even more alarming when one finds that it affects mainly the socially underprivileged segments of society - being more frequent in rural areas and among poor and less educated women.

324. An important question for the health care of adolescents in Brazil concerns their sexual behaviour. One finds today within Brazilian society greater sexual permissiveness and increasingly precocious sexual initiation, making the Brazilian adolescent more susceptible not only to unplanned pregnancy, but also more vulnerable to sexually transmissible diseases.

325. A recent study coordinated by the Ministry of Health to assess high-risk sexual behaviour, carried out among youths who enlist for military service, clearly shows that high-risk sexual behaviour becomes greater as the socio-economic level of the individual decreases, being more marked among those with incomplete schooling and who are self-supporting. One finds, therefore, that in precarious family and social situations, young persons expose themselves to greater risks in relation to their sexual practices, presenting an opposite tendency to those who live with their parents and attend school. One of the greatest challenges facing the optimization of programmes and interventions at the national level has been, therefore, to ensure that measures have a generalized impact, particularly on those who are susceptible.

326. Notwithstanding the difficulties, some studies provide promising results concerning the increasing use of contraceptives during the period under study, in all the regions of the country, indicating that preventive actions against sexually transmitted diseases (STDs) are being adequately implemented. Besides specific campaigns in the mass communication media, special mention should be made to the introduction of questions related to sexuality and drug use in the

school curricula and the policy of making contraceptives easily available, as a stimulus to adopting safe sexual behaviour. Important preventive initiatives have also been directed at street children and adolescents in conflict with the law that are serving socio-educational sentences.

327. Another positive result concerns the preventive actions and assistance carried out by the Ministry of Health in controlling HIV/AIDS. The reduction in the rates of incidence of HIV infection among the child and adolescent segment is significant, as well as the increase in life expectancy of children and adolescents living with HIV. From 1991 to 2001, the number of cases reported of persons under 19 years infected by HIV was only 4.9 per cent of the total cases reported. It is estimated, however, that half the total population currently infected contracted the virus while in the 15-to-24 age group, which justifies maintaining and intensifying preventive action among young people.

328. Particular mention should be made to the financing by the Government of a series of projects developed by civil society, which provide support to individuals living with HIV/AIDS, offering them accommodation, social and psychological support and helping to minimize the difficulties they are facing, including children and adolescents orphaned through AIDS.

329. How to deal with the health care of the adolescent in Brazil is not an easy question. In a context of social contrasts, the greatest negative impact falls on this segment of the population, caused by such factors as violence, sexual behaviour and drug use (the latter being dealt with in the section "The undue use of drugs - legal and illegal", paras. 641-649).

330. No single institution is capable of performing all the actions necessary to ensure the health and development of adolescents and youths. Alliances and partnerships are essential to create the conditions for protecting the welfare and maximizing the potential of all young people. Important initiatives have been taken at the three levels of government to implement projects that promote the organization of service networks (Youth Spaces), whereby the states and municipalities develop a common agenda on behalf of the health and development of youths with the participation of government and civil society, in order to provide adolescents and youths with a better quality of life.

3. Government actions directed towards infant and adolescent health

331. The reality of Brazilian sanitation is highly complex as a result of regional differences, the geographic extension and social inequalities of the country, which create a situation in which the sanitary conditions found in developed countries coexist side by side with the sanitary conditions of poor countries. This setting presents the Government with a major challenge in its efforts to manage the health system and confront the critical questions in the area.

332. Nonetheless, significant progress has been achieved in recent decades as a consequence of improvements in the organization of the health system and the implementation of a series of programmes and initiatives, some specifically directed to the infant and adolescent population, others of broader application. A majority of these programmes are directed, first and foremost, towards improving the conditions of life and health of the low-income population, within the scope of the compensatory social policies implemented in the country throughout the period under consideration in this report.

333. The information concerning public expenditures on health presented in the first section of this report, entitled “Child budget: federal Government expenditures on the policy of enforcing the rights of the child and adolescent” (paras. 76-84) indicates the priority given the issue and the investments channelled to that area.

334. The programmes and initiatives presented below constitute some examples of the actions that, taken together with the public assistance provided through the Single Health System (SUS) and the countless initiatives developed by the states and municipalities - in accordance with the principle of autonomy of each level of government and the identification of local priorities - can lead to new approaches for confronting problems related to health, social inequality and exclusion, improving and humanizing assistance and have successfully introduced changes in health conditions in Brazil, particularly among infants.

Basic health assistance

335. The Government’s main strategy for strengthening basic health assistance is the Family Health Programme (PSF), developed by the municipal health secretariats in a manner agreed to with the states and the Ministry of Health.

336. The PSF considers the organization of the workload of local teams that include a doctor, dentist, nurse, nursing assistant and five community agents. In May 2002, there were 15,523 family health teams in the country, serving 50 million individuals in 4,914 municipalities. By the end of 2002, the PSF will have reached 70 million individuals. Although not necessarily linked to the PSF teams, nearly 166,000 Community health agents regularly visit 73 million individuals in 4,610 municipalities.³⁰

The Alvorada Project

337. The project was created for the purpose of articulating and integrating the actions of various areas of the federal Government, in cooperation with states, municipalities and civil society, with a focus on improving the living conditions of the neediest populations, particularly municipalities with a Human Development Index (HDI) below 0.500 and areas suffering from prolonged droughts.

338. The Alvorada Project reaches 2,361 municipalities and a total of 42,705,000 individuals, that is, almost 25 per cent of the country’s total population. Within the scope of the Ministry of Health, the Alvorada Project is composed of a food grant, basic sanitation, prenatal and birth humanization programmes, and the community health agents family health programmes, among others.

Infant Mortality Reduction Programme (PRMI)

339. Launched in 1995, the purpose of the PRMI³¹ was to expand the capabilities of the health sector to provide full assistance to children ages birth to 5 years by means of different mechanisms, giving priority to poor families in 915 of the highest risk municipalities. Beginning in the second half of the decade, the conditions for providing assistance for labour and birth were emphasized as a result of the progressive trend in infant mortality cases away from the post-neonatal stage to the neo- and perinatal stages.

Assistance for pregnancy and labour

340. In Brazil, prenatal assistance reaches 93 per cent of pregnant women, without great variations from region to region. To improve the quality of assistance throughout pregnancy, the prenatal and birth humanization programme, currently in place in 3,920 municipalities, was created. It transfers an additional R\$ 90 per pregnant woman to municipalities that have fulfilled the prenatal assistance programme.

341. In 1999/2000, approximately US\$ 100 million was invested in 226 maternity wards throughout the country for purposes of implementing a high-risk pregnancy assistance system, including physical adjustments and adaptation of the equipment used to provide obstetric services, the construction of intermediate and intensive neonatal care units and training for health-care professionals. The accreditation of maternity wards has also been promoted, in order to improve the quality of the assistance offered. Other actions have been developed to improve the service provided to pregnant women by means of the implementation of procedures to humanize the assistance extended during labour, including remuneration for a natural birth witnessed by an obstetric nurse and authorization to have a companion present during the hospital stay. An award in the amount of US\$ 10,000 was established in 1998 for maternity wards that provide humane assistance.

342. In addition, initiatives were launched to restrict unnecessary practices during surgical births in SUS hospitals (approximately 40 per cent of all births in 1995), thereby stimulating natural births. The measures adopted led to a 22 per cent drop in Caesarean sections in the SUS between 1997 and 2001.

343. Neonatal triage consists of an exam of the newly born child between the second and seventh days of life for purposes of diagnosing morbid conditions for which the child presents no symptoms to that point, but which may have a serious impact on the neonate's later development if they are not diagnosed and treated early.

344. The right to diagnoses of metabolic anomalies is assured in the chapter on health in the Statute of the Child and Adolescent (ECA).³² Responsibility for performing the exams has gradually been assumed by the Ministry of Health, which from January to June 2002 conducted 1,070,010 tests, a figure equivalent to 71 per cent of the estimated live births in the country.

345. The programme considers the diagnosis of congenital hyperthyroidism, phenylketonuria, hemoglobinuria and cystic fibrosis. The conditions for assisting diagnosed children, specifically with the provision of special drugs and food, have also been established within the scope of the SUS.

Humane assistance to newly born underweight children

346. The Mãe-Canguru Method involves a strategy to provide differentiated neonatal care to newly born children weighing less than 2.5 kilos, which, in combining the latest technical knowledge with integrated and humane assistance, provides for a better bond between the mother and the child, the active participation of the mother in the underweight child's care, a faster recovery time for the child and earlier release from the hospital. The newly born underweight

child remains in constant direct contact with the mother from the earliest stages, in a vertical position, allowing her to maintain the baby warm and breastfed in a more comfortable and regular manner. In Brazil, there are 260 maternity wards that offer high-risk management and are capable of using the Mãe-Canguru Method.

Strategy for Providing Assistance for Prevalent Infant Diseases (AIDPI)

347. The purpose of the strategy is to promote a rapid and significant reduction in infant mortality, while introducing a new approach to children's health. Originally developed by the World Health Organization/Pan American Health Organization (WHO/PAHO) and the United Nations Children's Fund (UNICEF), the strategy is characterized by its simultaneous and integrated consideration of the set of diseases that are most prevalent in infancy, rather than the traditional focus centred on looking at each disease separately.

348. In Brazil, the Ministry of Health incorporated the AIDPI into the Children's Health Assistance Policy in 1996 in such a manner as to direct it principally to primary care, with an emphasis on providing full assistance to sick children under the age of 5 through the basic health plans and the family health programme teams. The next goal is to expand the strategy and incorporate it into the activities performed by the family health teams' community health agents.

Infant Growth and Development Follow-Up Programme

349. Part of the Children's Full Health Assistance Programme (PAISC) prioritizes the five basic actions for children between the ages of 0 to 5. The initiative shifted the traditional focus of assistance to the child, based on pathology, to a new type of care assuring that full assistance is provided by the children's health services and in which growth and development constitute the primary pillars of care. The Ministry of Health standardized the "child's card" *Cartão da Criança* to serve as an instrument for following the progress of the individual child's growth and development.

350. The Birth Registration Project for children between the ages of 0 and 12 years led to the implementation of registration centres in maternity wards linked to the SUS and established financial incentives for each registration executed in those maternity wards, so as to reduce the number of unregistered children in the country.

The National Maternal Breastfeeding Incentive Programme (PNIAM)

351. Created in 1981, the PNIAM coordinates actions undertaken by Government and civil society in the area of health, nutrition, education, communication, legislation and work with the aim of promoting breastfeeding in Brazil. The success of the programme has been internationally recognized.³³ The Declaration of the Innocenti, issued in Italy by government policy-makers and agencies in the area of health and the United Nations establishing that all Governments set 1995 as the target for having in place a National Maternal Breastfeeding Committee and a National Multisectoral Maternal Breastfeeding Committee made up of representatives of Government, non-governmental organizations and health-care professional associations, was based on the Brazilian experience. At the 54th World Health Assembly

in 2001, Brazil proposed a draft resolution recommending that maternal breastfeeding no longer be the exclusive practice for a period of four to six months, but rather for six months, a standard adhered to in the country for over 10 years. The Brazilian proposal was approved unanimously by the WHO member-States present at the Assembly.

352. A national policy to promote and support breastfeeding has led to a progressive increase in the number of children in the country fed with mother's milk. Although ideal levels have not yet been reached, significant progress was made in the 1990s. According to information gathered from national surveys, in the urban areas of Brazil the average time of maternal breastfeeding went from 5 months, in 1989, to 6.7 months, in 1996, and 9.9 months, in 1999. In 1996, 37 per cent of babies in Brazil continued breastfeeding after their first year of life, while 15 per cent still breastfed after their second year of life.

353. Brazil is considered the country with the highest rates of maternal breastfeeding in the world. At the heart of these results lie various actions developed by the Ministry of Health, in conjunction with the health secretariats and civil society, aimed at promoting, protecting and supporting maternal breastfeeding. Among these, the following bear mention:

- Friend of the Child Hospital Initiative (IHAC): Launched on a global scale by WHO and UNICEF in 1992, the initiative aims to fulfil the “ten steps to successful breastfeeding” in maternity wards. In Brazil - where there are 223 Friend of the Child Hospitals distributed throughout 24 Brazilian states³⁴ and subject to yearly re-evaluations - five additional quality criteria were established, among them a maximum acceptable rate of Caesarean sections; and
- Friend of the Basic Breastfeeding Centers Initiative (IUBAAM): The purpose of the initiative is to mobilize all 37,400 basic health centres in the country to adopt the IUBAAM's “ten steps to successful breastfeeding”.

354. With 161 banks in operation, Brazil's Network of Human Milk Banks (BLH) is the largest and most complex in the world. The objective of the BLH network is to provide support to mothers in promoting and managing maternal breastfeeding, including activities for collecting excess lactic production, pasteurizing and controlling the quality of the human milk collected and its subsequent distribution to newly born, underweight, premature and sick children, who cannot be breastfed by their mothers, all free of charge. Between 1998 and 2001, the network collected 318,195 litres (84,058 gallons) of human milk, provided by 217,562 donors, thereby enabling the provision of milk to 393,537 newly born children. Additionally, 2,058,396 mothers were assisted. It was for these efforts that Dr. João Arpício Guerra Almeida, coordinator of the Network of National Human Milk Banks, accepted, on behalf of Brazil, the “Sasakawa Health Award” from WHO at the 54th World Health Assembly in 2001.

355. The Friendly Postal Worker Project (*Projeto Carteiro Amigo*) trained 15,830 postal workers in 468 Brazilian municipalities delivered basic guidelines and information on health to nearly 2 million pregnant and nursing women in 2001 alone. The Firefighters for Life Project (*Projeto Bombeiros da Vida*), which encompasses 10 Brazilian states, establishes a partnership between the Network of Human Milk Banks and the Fire Brigades that is responsible for carrying out residential collections of milked human milk and advising women who are nursing on how to manage breastfeeding.

356. World Breastfeeding Week was launched by the World Alliance for Breastfeeding Action, in 1992. The initiative brings together various segments of society to participate in maternal breastfeeding campaigns and addresses different themes every year, including education, human rights, work, communication and health.

357. The Brazilian Guideline for the Commercialization of Foods for Lactating Women and First Infancy Children, Dummies, Pacifiers and Feeding Bottles (NBCAL) is national legislation on the commercialization of foods for lactating women and infant children, dummies, pacifiers and feeding bottles that is quite advanced in relation to the equivalent International Code. It provides the legal foundation for oversight activities in the protection of fundamental rights of children who are breastfeeding and offers protection against the seductive practices of the associated industries that attempt to induce women to stop breastfeeding prematurely.

358. The Live Library in SUS Network Hospitals Project, created in cooperation with the NGO Fundação Abrino and CITIBANK, aims to humanize the care provided to the child in the hospital and outpatient setting through the introduction of libraries and the reading of educational books and children's literature and the participation of professionals and trained volunteers.

359. The National Immunization Programme (PNI) is responsible for the progress made by Brazil in controlling diseases that are preventable by immunization. PNI has a basic vaccination calendar that includes 13 essential vaccinations so as to ensure the epidemiological control of immunosuppressive diseases, which are of primary interest and concern. These vaccinations are subject to rigorous quality controls and supplied and administered free of charge to the entire population through the public network.

360. In the 1995 to 2002 period, PNI's vaccination drives reached 95 per cent of children under the age of 1 for the Diphtheria, Tetanus and Pertussis (DPT) vaccine and 100 per cent for the poliomyelitis, BCG and measles vaccines. Poliomyelitis was eradicated in 1994, and no indigenous cases of measles have been recorded in the country since 2001, while diphtheria, whooping cough and the most serious strains of tuberculosis have been maintained in check. Through 2003, the vaccination of women in their child-bearing years will be expanded, in order to reduce the incidence of neonatal tetanus as much as possible.

361. Among the various strategies adopted by the PNI, the health campaigns represent the most important. The successful efforts against yellow fever and smallpox that date to before the 1970s and, subsequently, the campaigns against poliomyelitis and measles are notable examples in the history of Brazil's public health-care sector. The establishment of intersectoral links and partnerships with civil society, within the principles that guide the SUS, bear special mention.

362. In 2000, the National Immunization Programme acquired a total of 322 million doses of immunobiological drugs, including vaccines, immunoglobulins and sera, of which 193 million (60 per cent) were produced in the country. To guarantee the quality of the products procured, including those imported, an extensive quality programme was implemented with the collaboration of the national laboratory of reference and the sanitation monitoring system.

363. The domestic immunobiological industry is composed of public laboratories with a tradition in the manufacture of vaccines and sera used in official programmes. Between 1995 and 2000, the Ministry of Health invested US\$ 120 million to develop the capabilities of the laboratories, to the extent that by the end of this period the products offered fully served the needs related to vaccinations against tuberculosis, measles, diphtheria, tetanus, whooping cough, yellow fever, human and canine rabies, as well as heterologous sera (antiophytic, anti-tetanus, anti-diphtheria and antirabies).

364. The Special Immunobiological Reference Centres (CRIE) were implemented by the PNI to guarantee immunizations to populations with special needs, congenital or acquired immunodeficiency carriers or other similar morbid conditions.³⁵ PNI has 36 CRIEs distributed throughout the 27 state capitals and some important regional cities. The CRIEs also aim to provide support for specialized clinical and laboratory research in case serious adverse events associated to the vaccination procedures are reported.

365. The Adolescent Health Programme (PROSAD) was established in 1990. The programme represented a milestone in the provision of health assistance to the adolescent population of Brazil. In 1999, following the World Conference of Ministers responsible for youth issues, the programme was expanded to the Adolescent and Youth Health Area (ASAJ). The programme's main purpose is to reduce "morbidity-mortality" among youths and promote their health and full development. To this end, some basic directives have been established, such as actions centred on decentralizing care and transferring it to the municipal level, assuring monitoring by society at large, community participation, particularly the adolescent and youth segments and integration among the different bodies.

366. ASAJ gives priority to actions that structure the public health-care network in a manner that ensures specific assistance for this segment of the population. Its objective is to reduce health-related vulnerabilities and hardships by means of the organization of actions and services, at all levels of complexity within the SUS, into an integrated set aimed at promotion, prevention, and recovery using individual and collective procedures, specific to each case, thereby guaranteeing broader access for youths and adolescents to health services that address their specific development needs.

Prevention of accidents and violence in childhood and adolescence

367. In 1998, the Ministry of Health convened specialists with extensive knowledge in a series of debates on external causes of death in Brazil, establishing the Technical Scientific Committee on Adolescents and Violence and the Committee on the Prevention of Accidents and Violence in Childhood and Adolescence, for purposes of developing a National Policy for the Reduction of Morbimortality Arising from Accidents and Violence. The corresponding document was approved by the National Health Council, in 2001.

368. With respect to children and adolescents, the Ministry of Health, pursuant to the directives set forth in the policy, stimulates the promotion and adoption of healthy behaviour and environments, interdisciplinary and intersectoral assistance to the victims of accidents and violence, the training of human resources to provide special and differentiated service, educational campaigns and the mandatory notification to the Tutelage Councils of all SUS health professionals suspected or known to have mistreated children and adolescents.

369. The Food and Nutrition Policy. The 1990s represented a milestone in public food and nutrition policies, especially with respect to the participation of civil society which, in conjunction with the Government, developed proposals to address poverty and hunger. This process was launched in 1992 with the Citizen Actions against Hunger and Misery and for Life campaign. One of the cornerstones of the movement is its annual call for society at large to participate in the “Christmas without Hunger” effort, which in 2001 distributed 4,000 tons of non-perishable food throughout Brazil.

370. At the same time, with the establishment of the National Council on Food Security (CONSEA), in 1992/1993, the federal Government moved closer to civil society, expanding the debate on food security. In 1995, CONSEA was replaced by the Council on Community Solidarity, which redirected the focus of food and nutritional security towards the fight against poverty.³⁶

371. Beginning in 1999, the Ministry of Health approved the National Policy on Food and Nutrition (PNAN), which includes general directives for stimulating universal access to food through intersectoral actions, as set out in the Intersectoral Food Commission, guaranteeing and securing the quality of food, expanding and refining the Food and Nutrition Monitoring Service and promoting healthy food habits and lifestyles. To this end, the measures deserving mention include ensuring nutritional labels on marketed products and the development and dissemination of food guides to the Brazilian population, the training of human resources to run the specific activities in the areas of food and nutrition and the prevention and control of nutritional disturbances and diseases associated with food and nutrition.

372. In order to address protein-energy malnutrition, the two main focal points of the Ministry of Health are the Incentive Programme for Combating Nutritional Deprivation (ICCN) and, more recently, the Food Subsidy Assistance Programme. The purpose of the ICCN is to assist in the nutritional recovery of children between the ages of 6 and 23 months. The federal Government transfers financial resources so that municipalities can purchase whole milk and soy oil. The municipalities can use a portion of the resources to perform activities to promote maternal breastfeeding and healthy food habits, in addition to the purchase of supplemental nutritional supplements, such as iron and vitamin A, intended to carry out the most important food and nutritional measures for the region from an epidemiological standpoint.

373. Launched in September 2001, the Food Subsidy Assistance Programme directly transfers resources by means of an electronic card so that families can purchase food. The programme’s beneficiaries are pregnant women and children who are at risk from a nutritional standpoint; these fall within the ages of 6 months and 6 years and 11 months and come from families with a monthly per capita income of up to R\$ 90. The requirements for remaining in the programme include full participation in a set of basic measures provided by the health services, such as immunization, prenatal care, in addition to educational actions regarding maternal breastfeeding and nutritional guidance. In October 2002, the programme reached 3,760 Brazilian municipalities through the distribution of 1,300,361 vouchers (or beneficiaries). The total amount directed to the programme is R\$ 572 million per year, while the annual goal is to reach 3.5 million beneficiaries. The programme initiated a new strategy for confronting malnutrition, founded on a simplified operational procedure whose scope is not limited to nutritional benefits, but, above all, to an increase in basic health actions.

374. Since 1994, the Ministry of Health has distributed capsules containing mega-doses of vitamin A to children from the ages of 6 to 59 months living in high-risk areas as part of an effort to control vitamin A deficiency. On average, 2.1 million mega-doses have been administered per year, reaching approximately 65 per cent of children between the ages of 6 and 11 months and 45 per cent of children between the ages of 12 and 59 months. In 2001, the strategy was expanded to include puerperal women immediately following labour. The Ministry of Health has also developed other measures to control vitamin A deficiency, such as educational efforts to promote the consumption of foods rich in vitamin A and the development of technologies to supplement foods that are accessible to the population with vitamin A.

375. To control iron deficiency, the strategy adopted involved iron sulfate supplements. Since 1995, community health agents have distributed 2.2 million bottles of iron sulfate to children living in the poorest regions of the north-east. This measure has been connected to educational actions to promote the consumption of foods rich in iron. More recently, the Government, food industry associations, academic institutions, international organizations, consumer protection and food security movements signed the “Social Commitment to Reduce Anaemia Arising from a Lack of Iron in Brazil”. On the basis of the directives approved, the Ministry of Health is in the process of regulating the requirement that wheat and corn, including its derivatives, flours be fortified with iron (30 per cent of recommended daily allowance) and folic acid (70 per cent of RDA). Experiments at the international level indicate that the mandatory addition of these substances is an effective measure within the context of a set of strategies aimed at reducing iron-deficiency anaemia and diseases of the neural tube among the population.

376. Iodine deficiency is controlled by means of the universal iodination of salt, sanitation enforcement and inspection actions of commercialized salt, in addition to educational actions carried out by community health agents for the purpose of promoting the consumption of iodized salt.

377. The Buccal Health Programme created in 1989 is based on the same principles as the SUS, its focus centred on combating the main buccal pathologies, especially dental cavities and gum disease. The Government spent US\$ 2.5 million, at the time of its implementation, on a plan to increase fluoridation in drinking water and to expand access to fluoridated products for nearly 12 million children. Some important experiments were carried out in the states and municipalities based on the vision of full assistance that included measures aimed at buccal measures. In December 2000, these were incorporated into the Family Health Programme. The family buccal health teams are composed of dentists, technicians and assistants. By September 2002, these teams offered the opportunity for access to basic buccal health prevention, promotion and assistance to approximately 25 million Brazilian citizens.

Family Planning Programme

378. The use of contraception in Brazil has been a common practice since the second half of the 1970s. In 1996, when the most recent demographic and health survey (DHS) was conducted in the country, 55 per cent of women of childbearing age used some form of contraception. This percentage rose to 76 per cent when only those women in stable relationships was considered.

The most frequently employed method of contraception was female sterilization, followed by the pill. The public sector provided contraception to 43 per cent of women. To expand access by low-income women to information and an expanded array of contraceptive methods, in 2000 the Ministry of Health initiated the implementation of a plan, developed in conjunction with states and municipalities, to gradually serve the potential demand for contraception in the SUS, assuming responsibility for the centralized procurement, quality control and distribution of these inputs to the states and, beginning in 2002, to some municipalities that fulfil certain criteria.

379. The first delivery of material from the programme took place at the end of July 2002 and included 4,568 municipalities and 20,000 basic kits. On the basis of this strategy, the intention is to serve 1.4 million women in 2002 and 3.8 million in 2003. The programme's initial coverage is intentionally directed to small cities, where the economic hardships of the population and the municipalities are more acute. Medium-sized and large (with more than 50,000 residents) cities are receiving quantities below their demand potential, which the cities themselves must supplement with their own resources. An operational study evaluating the strategy is in progress.

380. Although the programme is intended to expand access to contraception by adolescents, this group represents a small portion of the actual population served, as a consequence of the difficulties related to the lack of preparation among health-care professionals and cultural attitudes that limit the expression of adolescent sexuality. In the last decade, the rate of teenage fertility has grown, as in various other countries, requiring the development of a large-scale intersectoral programme to address the problem.

National Prescription Drug Policy

381. Brazil has one of the 10 largest prescription drug markets, accounting for about 3.5 per cent of the global total. In 1998, the National Prescription Drug Policy³⁷ was passed to guarantee the safety, effectiveness and quality of prescription drugs, and rationalize the population's use of and access to essential products. Implementation of the policy presumes decentralized management of resources based on a national list of essential drugs and a minimum set of mandatory products for the public network. Financing of basic pharmaceutical assistance is shared by the three levels of Government. The purchase and distribution of drugs are the responsibility of the states and municipalities, with the federal Government having the duty to make those products considered to have strategic importance available, among them special anti-retroviral, haemoderivative and antimicrobial products. To expand access by the whole population to drugs, the production and commercialization of generic products³⁸ has been encouraged, the average cost of which is 40 per cent below market prices.

Control of sexually transmittable diseases (STDs), AIDS and syphilis

382. The Brazilian Programme for Controlling STD/AIDS has achieved international recognition, especially because of the success it has had in confronting the AIDS epidemic in Brazil. The actions aimed at children and adolescents have, with respect to health assistance, focused primarily on actions designed to prevent the transmission of HIV and syphilis from the mother to the newly born child, referred to as vertical transmission.

383. The number of pregnant women infected with HIV in the country is estimated to stand at 17,198, an estimate arrived at on the basis of an incidence of 0.6 per cent obtained from sentinel studies performed in maternity wards. In spite of the progressive increase in the number of parturients (women in labour) receiving AZT injections at the moment they give birth in the last four years, this specific treatment reached only 34.8 per cent of HIV-positive women in labour in 2001, manifesting, moreover, uneven reach throughout the regions and cities of Brazil that varied from rates as low as 20 per cent to rates as high as 75 per cent.

384. In this context we can add the Birth-Maternity Project, which seeks to diagnose women in labour who have not been tested for HIV and syphilis during pregnancy. It makes available the necessary resources to better assist the mother-child pair through the training of health-care professionals and the required inputs for ensuring the prophylaxis of the vertical transmission of HIV (quick test for HIV, chemoprophylaxis with AZT for the mother and the baby, recommended type of birth, lactation inhibitor and provision of infant formula) and the reduction of morbimortality through congenital syphilis (serologic tests for syphilis and the treatment of the disease in the mother and an investigative diagnostic of the newly born child). It is hoped that with these measures projected new cases of infection by HIV in Brazil will fall by 50 per cent. Between 1994 and 2002, it is estimated that 3,371 infections were prevented. In addition, an effort is under way to reduce the number of deaths due to congenital syphilis, found in approximately 120 cases per 100,000 live births, and the delayed effects of syphilis in children.

385. Brazil's policy on universal access to anti-retroviral drugs, established in the early 1990s and consolidated in 1996 by means of a federal law,³⁹ makes highly active anti-retroviral therapy (HAART) available to all patients infected with HIV for whom treatment is recommended, including children and adolescents.

386. Through December 2001, 113,000 individuals were in treatment, 6,100 of which were under the age of 13. Currently, the Ministry of Health distributes 15 anti-retroviral drugs throughout the public health network in 30 different cocktails, 11 of them specifically for paediatric use. The treatment of individuals under the age of 13 follows the parameters established in the Ministry of Health's "Guide for the Clinical Treatment of HIV Infection in Children", and the anti-retroviral therapy has clinical criteria similar to those recommended for adults. Laboratory monitoring of individuals living with HIV/AIDS in the public health system is accomplished through the nationwide network of credentialled laboratories that are capable of performing tests to assess T-CD4+ cell counts and the quantification of the viral load and then proceeding to the genotyping of HIV-1.

387. The network of specialized services for individuals living with HIV/AIDS has been consolidated in the public system through the training and credentialling of hospitals, outpatient clinics and other forms of assistance, such as day hospitals and residential therapeutic assistance programmes.

388. All these alternatives offer assistance to children infected or at risk for vertical transmission of HIV. To fulfil the growing demands of adolescents living with HIV/AIDS, the

services referred to above are being implemented with a view to providing more qualified assistance and adopting strategies to optimize adherence to anti-retroviral treatments by children and adolescents.

389. Among the main prevention strategies are the cooperative initiative established between the Ministry of Education and the National Committee on STD/AIDS, which provides for the introduction of questions relative to sexuality and drug use in the National Curriculum Parameters and the continuing training of teachers, including the development of educational material on the subject of “sexual orientation and sexually transmittable diseases”. Today, this programme has been adopted in 2,900 municipalities and 20,000 study groups, with 250,000 teachers, and will permit preventive actions to be better internalized in schools in all regions of the country.

390. Other significant actions have been articulated and developed jointly with institutions that work with children and adolescents outside of the school environment, such as the National Street Boys and Girls Movement, institutions exclusively geared towards adolescent offenders completing social and educational rehabilitation programmes, and the development of preventive actions with “men who engage in sexual relations with young men”. This is done primarily because, although a 1 per cent reduction in the notified cases of AIDS has been registered, an analysis of data pertaining to 2000 and the first three quarters of 2001 shows that the majority of new AIDS cases in this exposure category refer to the youth population.

391. The policy of offering complementary contraception deserves mention, given that changes in behaviour are tied to access to information, guidance and safe sex, in which protection is a central issue. A study conducted by the “Global Sex Survey” 199 (Durex), Ministry of Health/CEBRAP, indicated that 48 per cent of adolescents used contraception the first time they engaged in sexual intercourse, and of these, 71 per cent had higher levels of education.

392. The programme also developed various strategies for involving and creating partnerships with civil society, not just through information campaigns but through the organization of support houses, as well, which are aimed at individuals living with HIV/AIDS and offer housing, social and psychological support, among other activities. These initiatives have succeeded in minimizing the difficulties confronted, above all by children and adolescent orphans of AIDS victims. The national and state STD/AIDS committees have financed countless projects developed and coordinated by non-governmental organizations (NGOs), including actions specifically directed at children and adolescents.

National Smoking Control Programme

393. The actions to control smoking make up part of the strategies aimed at preventing people from starting to smoke, especially children and adolescents; actions to encourage people to quit the habit, including support provided for them to seek treatment in the SUS network; safeguarding of non-smokers from exposure to tobacco smoke, and the regulation and control of tobacco products, their advertising and marketing.

394. The programme places special emphasis on educational actions and on mobilizing society with respect to the topic through the promotion of healthy lifestyles. Specific educational actions, such as public awareness campaigns and the dissemination of information by the media can combine with continuing educational actions essential for translating the disseminated information into changes in individual attitudes and behaviour.

395. Legislative and economic actions operate as mediating and enabling instruments for educational actions with the aim of informing citizens about the risks of smoking and protecting them from exposure to environmental pollution caused by tobacco, as well as inducements to consume tobacco products contained in advertisements. There is also an effort under way to make it more difficult for young people to gain access to tobacco products through the support of measures that have the effect of raising prices and controlling the channels used for selling such products, principally the black market.

396. The Government passed a federal law⁴⁰ restricting publicity campaigns and prohibiting advertisements and the sponsorship of cultural events by the tobacco industry, as well as the consumption of tobacco products on aeroplanes and other public transport vehicles.

Participation of civil society

397. The health-care sector in Brazil has gained broad experience through its dialogue, interaction and partnerships with civil society in all its areas, which has unquestionably contributed to the success of its actions, particularly those centred on the health of children and adolescents. Numerous examples can be found in programmes, such as maternal breastfeeding, STD/AIDS, women's health - including of adolescent women - nationwide vaccination campaigns, the fight against malnutrition, the prevention of accidents and violence, the control of smoking and the fight against drug use, just to name a few.

398. Among the NGOs that have entered into partnerships with the Ministry of Health, special mention must be given to the *Pastoral da Criança* (Children's Pastoral), an ecumenical entity connected to the Catholic Church that acts principally in the development of basic health initiatives, nominated by the Government of Brazil for the Nobel Peace Prize in 2001.⁴¹ The *Pastoral da Criança* is present in 32,743 communities, organized into pockets of poverty throughout the countryside and in cities, in 3,555 municipalities, in every Brazilian state, and has more than 153,000 volunteers originating directly from the targeted communities who provide assistance to 1,635,461 needy children under the age of 6 and to 76,842 pregnant women from a total of 1,135,969 families. It is probably the largest NGO in the health field worldwide.

399. The *Pastoral da Criança* has achieved surprising results in reversing infant "morbimortality", even in areas of extreme poverty, by means of the adoption of very simple basic health measures (at an average monthly cost of less than \$1 per child), the extension of full citizenship rights and self-esteem and participation by the community in solving its own problems, awakening, in this way, the power of transformation in its members. Fully 90 per cent of the resources spent in developing the *Pastoral da Criança's* actions derive from the Ministry

of Health, which stands as a testament to the success of mutually beneficial partnerships established between the Government and civil society. (This report addresses health care for indigenous persons in section VIII. “Special protective measures”, “D. Children belonging to minorities or indigenous groups”.)

C. Social security and services and children’s shelters

400. The 1988 Constitution establishes that all persons have the right of access to the social security system, made up of social security (monetary benefits), health care and social assistance. The principles of universal coverage, the distribution of benefits and the progressive financing of the systems are also set forth in the Health care (1990), Social Security (1991) and Social Assistance (1993) Laws. Brazil’s social security system covers all the basic contingencies prescribed in ILO Convention No. 102, Social Security (Minimum Standards), 1952.

401. The Brazilian Constitution establishes that the State must promote basic social security for workers in the private sector, as well as health care and social assistance. In Brazil the execution of health care (organized within the Single Health System) and social assistance policies are the responsibility of the states and municipalities, while social security policies are developed by the federal Government and implemented by the National Social Security Institute (INSS). The model adopted provides for free health care and social assistance that do not require individuals to pay into the system to have access to it. The civil service also enjoys coverage for social services provided through separate systems. In the case of the social security regimes for the civil service, however, the law establishes that the benefits offered may not diverge from those provided by the INSS to private sector workers.

402. Based on 1998 data, it is estimated that the Single Health System (SUS) covers nearly 90 million persons, while another 35 to 40 million use private health-care services and 35 to 40 million have difficulty in accessing the system. Social security, which is mandatory for salaried and self-employed workers, also extends its coverage to family workers in rural areas who do not contribute individually. In this way, of the little more than 20 million monthly benefits paid at the end of 2001, nearly 7 million consisted of rural retirement and pension benefits, in addition to another 2.1 million monthly monetary assistance benefits. Various studies have shown that social security contributes greatly towards the prevention of higher poverty levels in Brazil.

403. In addition to health services, there are at least three monetary benefits provided by social security that directly affect children and adolescents: pensions for orphans, the family salary and the maternal salary. Those under the age of 18 years (21 if they are students) can benefit directly from pensions paid following a death, as is the case with orphans when the deceased has no spouse, including with regard to rural retirement pensions for which there was no contribution. The amount of the pension corresponds to 80 per cent of the retirement payment to which the deceased was entitled at the time of death, in addition to 10 per cent per dependant up to a maximum of 100 per cent. In 2000, of the 291,710 pensions granted, 26,391 were to young people up to the age of 19 years.

404. In the case of the family salary, families with children receive benefits proportional to the number of children 0 to 14 years of age or disabled dependants they have. However, the family salary provides a comparatively low sum (less than 6 per cent of an official minimum salary per child), which makes the benefit somewhat unattractive to the middle class. In spite of this, to supplement the budget of the poorest families, the family salary is useful. To receive the payment, families must demonstrate regular attendance in school by the children between 7 and 14 years of age.

405. Another benefit provided by social security that has a direct impact on early infancy is the maternity salary, which witnessed an expansion in coverage beginning in 2000 and reaches urban salaried, independent and rural workers. The maternity salary is paid every four months to the recipient at the time the child is born or adopted (for children up to the age of 8 years). Throughout 2000, 829,156 women received the maternity salary from the INSS. In September 2002, there were 144, 585 registered beneficiaries.

406. A fourth benefit offered by social security, to which children and adolescents have direct access, is the inmate-assistance programme, granted to dependants, including minors or incapacitated persons, of inmates imprisoned in the closed or semi-open regime whose salary does not exceed R\$ 468.47. The sum of the inmate assistance programme corresponds to 100 per cent of the amount of the retirement benefit to which the beneficiary would have the right to receive if he or she had been placed on permanent disability at the time of his or her arrest. In 2000, 3,019 inmate-assistance payments were granted, of which almost half - 1,581 (52.4 per cent) - went to individuals up to the age of 19 years.

407. Social assistance seeks to protect children who are living in poverty or socially vulnerable or at risk. The Organic Law of Social Assistance (1993) revolutionized the structure of public policies with the creation of: (a) a National Social Assistance Council (CNAS), which includes representatives of society at large, NGOs and the government, responsible for the development of policies; (b) the State Secretariat of Social Assistance (SEAS), which executes the policies; (c) a National Social Assistance Policy as the document of reference; and (d) a National Assistance Fund, intended to provide transparency to the expenditures made in the area. The same Council-Secretariat-Policy-Fund has been replicated at the state and municipal levels, where the majority of policy are implemented on the basis of the principle of decentralization.

408. In this area of social assistance, there is a large number of programmes aimed at children and adolescents that are coordinated and co-financed by the federal Government through SEAS and executed jointly by the state and municipal governments. Among these programmes, the most noteworthy include the Day-care Child Assistance, Assistance for Children in Shelter, Child Labour Eradication and the Social and Human Development Youth Agent Programmes. There are two other programmes coordinated by the SEAS directed towards disabled persons whose beneficiaries also include children: Disabled Persons Support Programme and the Continuous Benefit Provision Programme.

409. The Day-care Child Assistance Programme serves children ages 0 to 6 years, whose per capita monthly family income is less than half a minimum wage, in day-care centres and pre-schools and develops social and education actions with families. Through the National Social Assistance Fund, the federal Government is present in 4,349 municipalities, or 78.2 per cent of the total. In 2002, these units provided regular service to 1,631,182 children.

410. The Support Programme for Children and Adolescents in Shelters endeavours to protect children and adolescents between the ages of 0 and 18 years (in certain cases up to 21 years) that have been threatened or had their basic rights violated, by sheltering them in specific installations. These shelters are intended to be a temporary measure, for the ultimate desire is to return the child/adolescent to family and community life. In 2001, 94,563 persons were served in shelters co-financed by the National Social Assistance Fund. It is not known, however, how many shelters there are in Brazil or the total number of children who require support through this programme but do not receive any.

411. It is also important to mention the Child Labour Eradication Programme (PETI) - addressed in a section of this report (paras. 612-622) - which is coordinated by the federal Government through SEAS. PETI, whose focus is on children ages 7 to 15 years who work in dangerous, difficult, unhealthy and degrading activities, is complemented by two other similar programmes: (a) the Sentinel Programme, which encompasses a set of combined actions involving specialized social assistance for child and adolescent victims of sexual violence through the payment of grants to the exploited children and adolescents; (b) the Youth Agent Programme, which, in the context of preparing young people between the ages of 15 and 17 years in their social and human development, also includes income transfers. In the case of the Sentinel Programme, the transfer is contingent on the family removing the young person from the situation of commercial sexual exploitation and participating in the specialized social assistance offered by the reference centres implemented by the programme. In 2001, the Sentinel Programme served 18,310 youths.

412. The Young Agents Programme benefits adolescents between the ages of 15 and 17 years who live on the outskirts of urban areas and municipalities with a low Human Development Index (HDI), through training provided in the area of health, environment and citizenship for a period of 12 months. The time at which the youth begins to act in the community context constitutes an event that is planned between the technical team of the local administrator and the young person, consistent with the theoretical training received. In entering the project, the adolescent is encouraged and given support to continue attending school, for which an incentive involving a monthly cash transfer is offered. The programme can absorb other social programmes.

413. Assistance policies also include a Disabled Persons' Support Programme, which is funded by social assistance institutions aimed at serving this segment of the population through the National Social Assistance Fund. Among the beneficiaries of the transfers made to households with a per capita monthly income below half the minimum wage are children and adolescents. Institutions are in the process of being financed in 945 municipalities in Brazil, which benefited 120,418 persons, in 1999.

414. Another important income transfer mechanism for that same segment is known as the Continued Provisions Benefit (BPC). It offers a minimum monthly salary to disabled persons whose per capita monthly family income is less than half the minimum wage. Of the 107,915 BPCs of this type granted in 2000, 41,731 (38.7 per cent) went to persons up to 19 years of age.

415. Lastly, it is interesting to note the proliferation in Brazil in the 1990s, of social programmes that included income transfers associated with the formation of long-term "assets" (education and health). These are intended to construct a foundation capable of breaking the

vicious cycle of poverty to which children and adolescents are subjected. These programmes, which are focused on poor children, include PETI, the Youth Agent, food grants and school grants, all addressed in other sections of this report. In conjunction with the Continued Provisions Benefit and various transferral programmes focused on the poor, a foundation is in the process of being built for a broader minimum-income guarantee programme in Brazil.

D. Standard of living

416. Brazil is considered a developing country according to the most commonly used criteria, namely per capita income and the Human Development Index (HDI). With a per capita income of US\$ 6,625 in 1998, calculated on the basis of purchasing power parity (PPP), Brazil would occupy 58th position in the international rankings. The country's HDI ranking of 0.747, also based on 1998 figures, would place Brazil in 74th place worldwide, a level very similar to other Latin American countries (Colombia and Peru), economies in transition (Kazakhstan, Georgia and Ukraine) and the second generation Asian "tigers" (Thailand, the Philippines).

417. Contrary to those countries with aggregate indicators similar to the Brazilian case, Brazil is highly heterogeneous socially and regionally marked by profound internal inequalities in distribution. The Gini index, which measures income distribution, was 0.59, in 1999, and remained at 0.60, between 1993 and 1998 (the closer the figure is to 1.00, the more unequal the country is). Life expectancy at birth, which averaged 68.4 years, in 1999, was more than five years higher (70.8 years) in the south, a more highly developed region, compared to the nine states of the north-east (65.5 years), historically less developed and with an incomplete health infrastructure. Illiteracy among individuals 15 years or above reached 26.6 per cent in the north-east, in 1999, three times the total registered in the south and south-east (7.8 per cent), where the most dynamic economic centres are found and intense income generation takes place.

418. There is a vigorous debate in Brazil among specialists about the extent of poverty and indigence and the most adequate methods for measuring them. For some, poverty is the inability to satisfy the minimum consumption of a basket of goods and services, adjusted to the purchasing power levels in the different Brazilian states. In measuring poverty on this basis, in 1999 the percentage of people living in poverty in Brazil was 34 per cent, while those living in indigence accounted for 14.3 per cent of the total.

419. The Law on Social Assistance, however, uses another method for determining the economic vulnerability of the potential consumers of goods and services. It states that for certain services and/or cash transfers from the social assistance system, candidates must prove a per capita family income below half or one quarter of the official minimum wage. If this measurement is employed, in 1999, of the 153.7 million individuals surveyed, 41.1 million, or 26.8 per cent of the population, lived on less than half of a minimum wage. Another 16 million, or 10.4 per cent of the population, were found to live below the level of one quarter of a minimum wage, according to data of the National Sampling Survey of Households. This last definition of poverty is extremely significant, to the extent that it is the criteria used in the federal legislation in force.

420. According to this methodology, poverty rates (per capita family income below half a minimum wage) are higher among children and adolescents than among adults and the elderly. As Table 13 below shows, in the age range from 0 to 6 years 41.7 per cent of children have per capita family incomes below half the minimum wage, while 38.7 per cent of children between 7 and 14 years of age and 30.8 per cent of youths from 15 to 17 years of age find themselves in the same situation. All the remaining age groups in the population present figures below the national average for poverty.

Table 13

Population potentially needing social assistance (per capita family income below half the official minimum wage), by age group, 1999

Age	Total population	Population with a PCFI below half the minimum wage	Percentage
0 to 6	20 325 582	8 469 240	41.7
7 to 14	25 279 377	9 790 851	38.7
15 to 17	9 940 120	3 065 061	30.8
18 to 24	19 954 672	4 773 815	23.7
25 to 59	64 310 328	13 664 027	21.2
60 to 66	5 873 959	708 235	12.1
67 and over	8 033 118	691 809	8.6
Total	153 717 156	41 123 038	26.8

Source: PNAD 1999; prepared by IPEA.

Note: The sum does not correspond to the total population of Brazil due to the processing of PNAD microdata.

421. Among the explanations for this phenomenon is that the social security system has been much more efficient in reducing poverty indicators among the elderly. In addition, it is clear that children increase the risk of poverty in the family and that, despite the significant efforts undertaken in the 1990s, the benefits aimed at families with small children remain insufficient in quantity and amount to fully combat poverty among those 0 to 17 years of age.

422. In addition to higher poverty rates among families with children, these families are also at a disadvantage with respect to other social indicators that reflect quality of life, particularly those pertaining to housing and sanitation. For example, while an average of 88 per cent of the population, according to PNAD 1999, resided in households with potable water supplied from a general distribution network, this figure dropped to 69 per cent for children between the ages of 0 to 6 years. The remaining children accessed well or spring water or water from another source. The supply of potable water is particularly significant to children because of its role in dramatically reducing infant mortality.

423. It is important to note, however, that in 1992 the data on water supplies originating from the general network stood at 82.3 per cent for the population as a whole and 59 per cent for

children from 0 to 6 years of age, that is, the distance is gradually shrinking as a result of public investments in basic sanitation. The same can be seen in the availability of sewage treatment and regular trash collection in households with children. While 73.8 per cent of the population had sewage considered “adequate”, in 1999, only 45.7 per cent of children aged 0 to 6 enjoyed the same conditions. Whereas the population in general with access to adequate sewage rose between 1992 and 1999, from 66.1 to 73.8 per cent, for children aged 0 to 6, this same access rose by only one percentage point in the 1990s.

424. To combat poverty, the Community Solidarity Programme endeavoured, between 1995 and 1998, to extend the reach of basic existing social services and policies to less developed regions. Beginning in 1998, the effort to develop a policy to stimulate integrated local development has been carried out by the Active Community Programme - renamed from “Solidarity Community” - while the *Projeto Alvorada*, coordinated by the State Secretariat for Social Assistance (SEAS), expands basic social services in those states and municipalities having the lowest Human Development Indices, as classified by UNDP. In this way, existing programmes are coordinated and redundancy in the structures for providing services are avoided.

425. To finance various policies centred on income transfers coupled with social investments, such as school grants, food grants and basic sanitation in disadvantaged communities, the Fund for Combating and Eradicating Poverty was established in 2000. The fund collects contributions from financial transactions and operates within the mandate of a long-term financial policy to combat poverty.

426. While the supply of basic sanitation services expanded in the 1990s, particularly as a result of the “Basic Sanitation” and “Sanitation for Life”, it is worth noting, in conclusion, that a permanent solution requires decisions and guidance in terms of the reforms to which the sector has been subject since the last decade. There is a need to set forth a regulatory milestone, as well as define a new financing structure for the sector. The same rationale applies to the deficits identified in the area of housing in Brazil.

VII. EDUCATION, RECREATION AND CULTURAL ACTIVITIES

A. Education incorporated into professional training and guidance

427. The 1988 Brazilian Constitution establishes education as a right of all Brazilians, for which the State and the family are responsible. In setting forth the State’s duty with respect to education, the constitutional text guarantees: mandatory and free primary education; progressively universalized free secondary education; special educational services for disabled persons, preferably within the normal educational system; day care and pre-school for children between the ages of 0 and 6; access to the highest levels of education, research and artistic production, according to the abilities of each individual; regular educational offerings at night adjusted to the conditions of the student; and assistance to the primary education student through supplemental programmes that provide educational material, transportation, food and health care.

428. The 1990 Statute of the Child and the Adolescent (ECA) reaffirms the right to education, regulating the constitutional provisions. Therefore, it establishes the duty of parents or guardians to enrol their children or wards in the regular educational system. Failure to fulfil this obligation constitutes the crime of intellectual abandonment, prescribed in the Criminal Code, in those situations in which the parents cease to provide primary education to their school-aged children.

429. Since 1990, the Government of Brazil has undertaken numerous measures to promote quality and equitable education for all persons, in an effort to fulfil the commitments assumed in the Jomtien Conference on Education for All,⁴² as well as, with regard to the infant-youth population, the provisions established in the Convention on the Rights of the Child. In all areas of education, significant progress has been made, beginning with the expansion of the educational system, which has contributed to a reduction in illiteracy rates, from 17.2 per cent, in 1992, to 12.4 per cent, in 2001.⁴³

430. Today we can see that illiteracy is concentrated among persons above 40 years of age, precisely the segment that did not benefit from the expansion of the educational system. It is especially evident among populations which the educational programmes have difficulty in reaching, given their socioeconomic and cultural characteristics.

431. In fact, it would not be feasible to strive for the elimination of illiteracy while a solution to at least the question of universal access to primary education is not reached, that is, while the emergence of new illiterate individuals was not halted. Brazil has universalized access to primary education for 97 per cent of children and adolescents between the ages of 7 and 14, the key stage in the effort to eradicate illiteracy. It is equally important to note the impact that mandatory and free universal education has in ensuring social inclusion, considering the increase in the number of low-income children and adolescents who have gained access to schools.

Table 14

Illiteracy rates among individuals 15 years of age and above, Brazil and regions, 2000

Brazil and regions	Illiteracy rate by age group (percentage), 2000						
	15 years and above	15 to 19 years	20 to 24 years	25 to 29 years	30 to 39 years	40 to 49 years	50 years and above
Brazil	13.6	5.0	6.7	8.0	10.2	13.9	29.4
North	16.3	6.8	8.6	10.5	13.9	20.2	38.3
North-east	26.2	10.7	15.0	18.2	22.9	29.9	50.1
South-east	8.1	1.9	2.8	3.6	5.1	7.7	19.9
South	7.7	1.5	2.2	3.0	4.3	7.2	19.4
Centre-West	10.8	2.2	3.5	4.9	7.5	12.2	29.8

Source: Demographic Census 2000.

Table 15

Rate of schooling for children 7 to 14 years of age, by per capita income quintiles (percentage), Brazil, 1992 to 1999

1st quintile	2nd quintile	3rd quintile	4th quintile	5th quintile
1992				
74.5	82.9	87.4	92.9	97.2
1995				
81.8	85.9	90.6	94.9	98.3
1999				
92.5	94.2	96.0	97.0	98.9

Source: IBGE - Summary of Social Indicators 2000.

432. Given that the elimination of illiteracy is the foundation for guaranteeing the minimum conditions of social equity and access to the full exercise of citizenship, the Government of Brazil in partnership with civil society has invested in educational programmes connected to actions for combating poverty and reducing regional and individual inequalities. The efforts are directed toward individuals between the ages of 15 and 29 years and centre on permitting them to participate in the democratic process and assuring that they are placed and remain in the labour market. In this way, the National Curriculum References for the Education of Youths and Adults advocates adjusting education to the living and working conditions of students, an important factor considering the constitutional provision, which sets out that the right of special protection for children and adolescents must include guaranteed access to schooling for adolescent workers.

433. Emphasis must be given to the Ministry of Education's Youth and Adult Educational Support Programme, which comprises the Projeto Alvorada⁴⁴ and is intended to expand openings for youths and adults who are not able to complete their primary education at an appropriate age or who did not have access to schools. Nearly R\$ 45.6 million have been disbursed to 1,255 municipalities in the north and north-east.

434. It is also worth mentioning the Solidarity Literacy initiative, which employs a simple, innovative and low-cost literacy model. It is supported by the Government at the municipal, state and federal levels, as well as the 204 institutions of higher learning. The initiative receives financing from 101 partner companies, which split the cost of only R\$ 34 per month with the MEC. The MEC's investment of R\$ 17 per month corresponds to the provision of educational support materials, as well as a library contribution. In 1999, the programme covered 300,000 students in 850 municipalities. With the current expansion, the programme has been extended to 2,010 municipalities. In the first half of 2002, it served 708,344 students, and it is projected that in the second half of the year another 600,000 students will be included.

435. In assessing the results achieved by Brazil in the 1990s, some general observations about the Brazilian educational system should be noted. First, the new structure established by Law No. 9394 of 20 December 1996, referred to as the Law of Educational Directives and Bases, or simply LDB, bears mention. LDB introduced an important milestone in the history of Brazilian education. The greater flexibility and autonomy granted the educational systems inspired the principal reforms carried out in recent years, such as the conception of the current National Education Plan, as well as the organization of the Brazilian educational system.

436. As can be seen in the table below, basic education encompasses infant education, primary education⁴⁵ and secondary education, for a total of 18 years of schooling.

Table 15b

Summary of the structure of the Brazilian educational system

Levels and subdivisions			Years	Age group
Basic education	Infant Education	Day care	4	Up to 3 years
		Pre-school	3	From 4 to 6 years
	Primary education (mandatory)		8	From 7 to 14 years
	Secondary education		3	From 15 to 17 years
Higher education	Courses by area		Varies	Above 17 years

437. A distinct feature of Brazilian education is its extremely decentralized character. In fact, in Brazil mandatory primary education, day care, pre-school and secondary education fall under the purview of the states and municipalities. The central Government's role at the different levels is *normative* - establishing the broad outlines for the system - *redistributive* and *contributory* - providing assistance and subsidies to reduce social and regional inequalities.

438. This decentralization, an intrinsic component of federative systems, is associated with significant regional diversity. For this reason, the development of the educational system has not been uniform in all regions of Brazil, and the problems of access, attendance and success in school are very serious in the poorest areas.

439. The progress made in expanding the educational system reveals how Brazilian educational policies have sought to increase the population's educational level, promoting social inclusion based on the principles of universality and equity. The data concerning the gender question in education indicate positive results. Among the socio-economic factors that explain this phenomenon, the most important, without question, is the entry of women into the labour market. The growing need for professionalization has served as a stimulus for Brazilian women to endeavour to improve their level of schooling.

440. Paradoxically, another factor that has contributed to higher levels of schooling among women, when compared to men, is the premature entrance of young men from low-income families into the labour market, meaning, consequently, that they drop out of school, as a result of their engagement in activities incompatible with the daily school routine. Although child labour exists among poor girls, too, in general they prefer to devote their time to household chores, which are easier to accommodate to school hours and activities.

441. It is important to highlight that the reforms implemented in the curriculum, in Brazil, include the need to combat gender or racial stereotypes or any other type of discrimination and promote respect and tolerance with respect to differences. These questions are also considered at the time the textbooks used in the public primary schools are evaluated, resulting in the exclusion of books that transmit prejudice based on origin, colour, socio-economic status, ethnicity or gender. In addition, with regard to teacher training and preparation courses, the Ministry of Education is committed to introducing non-discriminatory content as concerns women, as well as any other topics that promote gender equality.

Table 16

**Average years of study of persons 10 years of age or above,
by sex, colour and geographic region, Brazil, 1992 to 1999**

Variable	Year		
	1992	1995	1999
Sex:			
Men	4.8	5.0	5.6
Women	4.9	5.3	5.9
Colour:			
White	5.8	6.1	6.7
Black	3.4	3.8	4.5
Mestizo	3.7	4.0	4.6
Brazil:	4.9	5.2	5.8
North	5.0	5.2	5.8
North-east	3.5	3.7	4.3
South-east	5.5	5.9	6.5
South	5.4	5.7	6.2
Centre-West	5.1	5.3	5.9

Source: IBGE - Summary of Social Indicators 2000.

442. Although access is provided free of charge, unconditionally, to all children and adolescents, the domestic legal framework includes, additionally, Law No. 7716 of 5 January 1989, which defines the crimes arising from discrimination arising from race, colour, ethnicity, religion or national origin. A sentence of three to five years will be handed down for anyone who, through discriminatory attitudes, refuses, denies or impedes a student's enrolment or entry to a public or private education establishment in any way.

443. With respect to the black and mestizo populations, which comprise respectively 5.4 and 39.9 per cent of the Brazilian population, illiteracy rates declined sharply, between 1992 and 1999, falling, respectively, from 28.7 to 21 per cent and from 25.2 to 19.6 per cent. However, when compared to the rates of illiteracy among the white population, 8.3 per cent, the figures show that a disparity based on race persists in Brazil.

444. With respect to the financing of education, the Brazilian Constitution determines that the federal Government must apply, on an annual basis, a minimum of 18 per cent, while the states, the Federal District and municipalities must provide 25 per cent, of the revenues derived from taxes and transfers to education. It also establishes an education salary, provided as a social contribution and paid by companies, to serve as an additional source of funding for the public primary education system.

445. Once that responsibility for mandatory primary education fell to the states and municipalities, it became necessary to define the legal criteria for dividing the resources and tasks. Constitutional Amendment No. 14 of 12 September 1996 established a new financing system - the Primary Education Maintenance and Development and Teacher Appreciation Fund (FUNDEF), which organized the contributions flowing from the federal Government, the states and the municipalities.⁴⁶

446. FUNDEF, which entered into operation in 1998, is aimed at assuring the equitable distribution of resources in each state, as well as reducing regional inequalities through the guarantee of a minimum amount per student/grade.

447. Some considerations on the dimensions of the Brazilian educational system bear mention. Brazil has more than 57 million students, if all levels and types of basic education are considered, which corresponds to almost one third of the population. In the last three decades, the system tripled. It is, therefore, a massive system requiring substantial investments by the Government, which accounts for 90.9 per cent of the enrolments in primary education, 84.2 per cent in secondary education and 37.9 per cent in higher education. Table 17 below presents the recent evolution in enrolled students by level and type of education, from 1996 to 2001.

448. In addition to mandatory free education granted by the State, the Brazilian Constitution ensures that education may be provided by the private sector, provided it fulfils the general norms governing education in the country and receives authorization from and undergoes quality evaluations by the Government.

Table 17
Initial enrolment by level/type of learning, Brazil, 1996 to 2001

Level/type of learning	Year					
	1996	1997	1998	1999	2000	2001
Day care ^a	-	348 012	381 804	831 978	916 864	1 093 347
Pre-school	4 270 376	4 292 208	4 111 120	4 235 278	4 421 332	4 818 803
Literacy class	1 443 927	1 426 694	806 288	666 017	674 044	652 866
Primary education	33 131 270	34 229 388	35 792 554	36 059 742	35 717 948	35 298 089
Secondary education	5 739 077	6 405 057	6 968 531	7 769 199	8 192 948	8 398 008
Special education ^b	201 142	334 507	293 403	311 354	300 520	323 399
Youth and adult education	2 752 214	2 881 770	2 881 231	3 071 906	3 410 830	3 777 989
Higher education	1 868 529	1 945 615	2 125 958	2 369 945	2 694 245	2 952 374

Source: MEC/INEP.

^a Through 1999, the data collected on day care included only those institutions incorporated in the formal education system.

^b The figures pertaining to special education include only specialized schools and special classes. It is important to mention that students with special educational needs, who are in regular classes, are recorded within the total enrolment in, respectively, infant education, primary and secondary education and youth and adult education.

449. The National Education Council (CNE), a normative and deliberative body, linked to the Ministry of Education, establishes the minimum conditions and standards for educational institutions and the national curriculum directives, which must be adopted and adapted by the education systems, except in the case of regional and local peculiarities.

450. In the light of the education setting described herein, we note that one of the Government of Brazil's primary concerns pertains to the quality of education. In this sense, beginning in the 1990s, the evaluation practices were developed with the introduction of mechanisms, such as: the National Basic Education Evaluation System (SAEB), the National Secondary Education Exam (ENEM) and the National Exam of University Courses (ENC), also known as the *Provão*, all under the responsibility of the National Institute for Educational Studies and Research (INEP), an independent branch of the Ministry of Education.

451. SAEB allows for the evaluation of the effectiveness of the education systems, with a focus on quality, efficiency and equity. Every two years, data is gathered that, in addition to verifying the performance of students through the application of performance tests intended to verify the competence and abilities of each student, examine socio-economic and other factors that affect learning. These factors can be evidenced in four areas: schools, the administration of schools, teachers and students.

452. The general objective of ENEM is to evaluate the student's performance upon completion of basic education. The *Prova* ("big exam"), which is mandatory, was created to evaluate the quality of the undergraduate courses in institutions of higher education through an annual exam that tests knowledge of students who are close to graduating.

453. In accordance with the provisions established in articles 28 and 29 of the Convention on the Rights of the Child, which address the right to education and the objectives of education, we would like to highlight the following advancements achieved by Brazil with respect to: the expansion of infant education; the increased offering of primary education; the strengthening of secondary and professional education; the effort against absenteeism; the improvement in the quality of teaching, and the support extended to educational institutions to introduce topics such as the environment, ethics, citizenship, health and sexual orientation in the classroom.

1. Early childhood education

454. According to the Law on Educational Directives and Bases (LDB), the purpose of early childhood education is to assure the full development of the child through the age of 6 with respect to all pertinent physical, psychological, intellectual and social aspects, carried out in conjunction with family and community actions. Evaluations in early childhood education take place through the use of instruments that record and monitor the development of the child but are not intended to determine whether the child should continue to the next level or not. Thus, attendance at an early childhood education establishment is not a prerequisite for access to primary education. Although not mandatory, it is a public right, the expansion of which is the municipality's responsibility, with the support of the federal and state governments.

455. Although the preliminary results of the 2002 education census⁴⁷ reveal that nearly 6.1 million children are enrolled in early childhood education, this is an underestimate, given that most institutions that offer the service - particularly non-governmental organizations - are not registered in the education system.

Table 18

Early childhood education (enrolment in day care and pre-school), distribution by age group, Brazil, 2001

Brazil	Total	Enrolment by age group		
		3 years or less	4 to 6 years	Above 6 years
Day care	1 093 347	664 854	414 112	14 381
Pre-School	4 818 803	188 202	4 190 284	440 317
Total	5 912 150	853 056	4 604 396	454 698

Source: MEC/INEP/SEEC.

Note: The data on age was obtained from the date of birth provided to the education census. Therefore, the child's age in 2001 was considered.

456. Until recently, day-care centres in Brazil aimed at serving children up to 3 years of age were under the responsibility of the social assistance agencies and the educational system. However, the LDB initiated a more systematic integration of these institutions, as required by the 1988 Constitution.

457. In 2001, enrolment in day care was concentrated in municipal establishments, of which 13,084 were registered and served 663,508 children. For their part, the 12,088 private registered establishments served 410,661 children.

458. Preliminary data from the education census of 2002 indicate that in the last two years there has been an increase of 4 per cent in the number of children enrolled in early childhood education. In spite of this, it is recognized that this type of education is still far too scarce.

459. We can see, therefore, that the implementation of public policies for early childhood education is currently in progress, and the education systems are in transition, whether with respect to the incorporation of day care to the education system or the precise definition of this stage of basic education. For this reason, we find that a portion of the children in day care are of ages that correspond to pre-school. This situation is common in all regions of the country, although more so in the north and north-east, where there is a larger population of children between the ages of 4 and 6 years that are served by day care.

460. It must also be mentioned that in 2001 only 9.5 per cent of the total served by day-care centres lived in rural areas, which can be understood by the dispersed nature of those populations, which requires travelling considerable distances to find service - a reality aggravated by the difficulty in offering transportation to small children - as well as the establishment of family arrangements to care for children, a frequent practice in the countryside.

Table 19

**Early childhood education (total enrolment in day-care centre and pre-school),
percentage distribution by age group, Brazil and regions, 2000**

Brazil and regions	Total	Enrolment by age group		
		3 years or less (percentage)	4 to 6 years (percentage)	Above 6 years (percentage)
Brazil	5 912 150	14.4	77.9	7.7
North	420 929	10.3	79.7	10.0
North-east	1 759 804	13.9	79.3	6.8
South-east	2 600 454	14.3	77.1	8.6
South	797 944	18.7	76.1	5.2
Centre-West	333 019	13.5	78.2	8.3

Source: MEC/INEP/SEEC.

461. In a country marked by profound economic and cultural inequalities, pre-school constitutes a precious instrument for ensuring a satisfactory basic education. The efforts undertaken in this area have been extensive, for initial enrolment in pre-school, in 2002, according to the preliminary results of the education census, reached a total of approximately 4.9 million children.

462. The existence, although secondary, of literacy classes, is worth highlighting. The difficulty in offering regular pre-school education to all children has led many states and municipalities to create literacy classes, which must precede and facilitate entry into the mandatory primary education system. Currently, a progressive decline in enrolment in literacy classes has been verified, as a consequence of FUNDEF's efforts to promote the enrolment of 7-year-old children directly in primary education. In 2001, literacy classes had 652,866 enrolled students, of which 78.9 per cent were between 6 and 7 years of age.

463. This expansion in service to children under the age of 7 reflects a response to growing demand, which, for its part, arises from the greater awareness among the less advantaged segments of the population concerning the value of a quality education in the child's first years of life.

464. It is also necessary to emphasize that the LDB permits the education systems to serve children under the age of 7 in the primary education system. Thus, there is a considerable contingent of 6-year-old children who are enrolled in primary education. In fact, when the rate of service offered children between the ages of 4 and 6 is analysed, it is clear that the percentage is low throughout the country, although between 1991 and 1999, the figure rose from 41.2 to 51.2 per cent. The number of 4- to 6-year-olds enrolled, regardless of the level of education in which the child had been placed, grew in the same period from almost 4.2 million to 5 million, with rural areas lagging behind in relation to urban centres.

465. In 2000, the Ministry of Education conducted its early childhood education census, in order to expand its registry of institutions offering infant education and to obtain more detailed information on the type of service provided. The results of this special survey enabled a more precise diagnostic of early childhood education in Brazil.

466. Finally, it is worth noting that the integration of early childhood education in the education systems, as regards the credentialling, supervision and training of teachers, does not exempt other sectors from participating in the development of public social policies for young children. Considering the age of the children who require health care and food supplements, it is necessary to merge the role of education with social actions in the area of health, the family and civil society, in a mutual effort.

2. Primary education

467. The Constitution of Brazil outlines a directive for primary education, establishing the determination of minimum content, as well as assuring a common basic education and the respect for cultural and artistic and national and regional values. For its part, the LDB states that

its objective is to form citizens through, among other things: the development of the ability to learn, for purposes of acquiring knowledge and skills and developing attitudes and values, as well as strengthening family ties and mutual human solidarity and tolerance on which society is based.

468. Of all the educational levels, primary education has made the most stable and continuous progress, translating into a significant increase in the number of enrolled students. In 1999, net schooling rates for persons between the ages of 7 and 14 reached 95 per cent, an increase of more than 10 percentage points over 1991. With the rate reaching 97 per cent, in 1999, the target established by the World Declaration on Education for All (Jomtien, 1990), which called for elevating the coverage of school-aged children to 94 per cent by 2003, was reached and surpassed.

Table 19

**Students 7 to 14, rates of schooling for primary education,
Brazil and regions, 1998/1999**

Brazil and regions	Rate of students served		Net rate of schooling	
	1998	1999	1998	1999
Brazil	95.8	97.0	95.3	95.4
North	93.8	95.8	90.4	93.2
North-east	92.4	95.6	90.0	92.8
South-east	97.7	98.2	97.4	97.6
South	96.9	97.7	96.2	96.6
Centre-west	95.8	97.3	93.9	95.6

Source: MEC/INEP.

469. Beginning in 2000, enrolment in the first cycle (grades 1 to 4) of primary education began to decline, as a consequence of the better flow of students, from 58.1 to 43 per cent, while enrolment in the second cycle (grades 5 to 8) increased from 41.9 to 56.6 per cent.

470. The expansion of access to primary education has been, since 1995, a priority of the federal Government. National campaigns to mobilize society and the media, such as the “Wake up, Brazil! It’s time to go to school” (*Acorda, Brasil! Está na hora da escola*) (1995) and “Every Child to School” (*Toda Criança na Escola*) (1997) initiatives contributed significantly to the incorporation of 4 million students in the primary education system, between 1996 and 1999.

471. In addition, from the time it entered into operation, in 1998, FUNDEF began to contribute significantly to stimulate the enrolment of school-aged children, as a result of the principle of the equitable distribution of public resources, as seen in the number of students enrolled in the state and municipal networks. Thus, FUNDEF has had an important impact on schooling rates in primary education.

472. Between 1991 and 2000, enrolment in the public sector grew by 25.4 per cent, with a strong increase at the municipal level (95.4 per cent). The north and north-east achieved the highest rates of enrolment in primary education, precisely the regions that manifested the largest deficits in terms of primary education coverage. The north/north-east's higher growth rates occurred in the final grades (88.6 and 99.6 per cent, respectively), indicating the re-entry of children who had left school.

473. FUNDEF's impact has also led to more qualified and better paid teachers, as the data of the National Sampling Survey of Households (PNAD)⁴⁸ in the table below indicates. FUNDEF's operational rules have had a positive effect on the remuneration of teachers, given that it requires that the states and municipalities channel at least 60 per cent of the Fund's resources to teachers' salaries.

Table 20

**Average monthly salary (R\$) of primary education teachers in public schools
(40 hours per week), Brazil and geographic regions, 1996-1999**

Brazil and geographic regions	1996	1997	1998	1999
Brazil	557	585	626	670
North	510	482	516	593
North-east	345	354	423	451
Centre-west	559	551	628	672
South-east	709	778	845	893
South	604	665	656	749

Source: Estimates MEC/INEP/SEEC based on PNAD data 1996, 1997, 1998 and 1999.

474. The legal authorization to use a minimum of at least 60 per cent of the resources directed toward the remuneration of teachers for the preparation of lay teachers,⁴⁹ during the first five years of FUNDEF's existence, and the possibility of using a portion of the remaining 40 per cent for the same purpose, beginning in 2002, has resulted in an increase in the qualification of the teaching profession. Prior to 1998, only 23 per cent of the educational networks developed activities aimed at preparing lay teachers, while, in 2000, a rise of 73 per cent was verified. Nearly 85 per cent of the educational networks registered a decline in the number of these teachers without the necessary qualifications.

475. According to the teachers' survey, conducted in 1997, the average monthly salary for teachers in Brazil's basic education system was R\$ 529.92, although we must point out that this remuneration is directly related to the level taught by the teacher. This difference in salaries is explained, principally, on the basis of the educational training required of professionals as concerns the level at which they teach.

476. The permanent monitoring of the educational system, carried out through annual surveys of the school census, has shown that the ability to serve the educational networks is now

sufficient to ensure an opening for every child between the ages of 7 and 14 and most of the young people between 15 and 17 years of age. The current problem with primary education does not lie in a lack of access, but resides, above all, in extra- and intra-school factors that make it difficult to maintain students in school and hinder their progress.

477. In conjunction with the efforts to universalize access, government actions have also been directed toward assuring success in school, defined as the progression of students through the final grade within the projected time. Execution of this goal requires an improvement in the quality of education.

478. Consequently, the main problems currently faced are repetition, which leads to age-grade incompatibility, excess enrolments, due to students repeating certain grades, absenteeism, regional differences and the training of inadequate teachers.

479. The gross rate of schooling at the primary education level of 130.5 per cent, as calculated in 1999, indicates that a very large proportion of students present an acute age-grade distortion, that is, their age exceeds that for each grade. This phenomenon has two principal causes: the first is late entry, after 7 years of age, which occurs more frequently among rural populations; the second, and more important, is repetition, which is responsible for absenteeism and overenrolment witnessed in the first grades of the primary education networks. Because of repetition, student take an average of 10 years to complete the 8 years of mandatory education.

480. The age-grade distortion has at least two other very serious consequences: the first has to do with the increased costs incurred by the education system; the second has a direct impact on students, namely the delays caused in their schooling, which affects their self-esteem and performance, as demonstrated by the results of the evaluations recently conducted by the INEP. The tests applied by SAEB and ENEM revealed that the performance of students tends to deteriorate as the age-grade distortion grows.

481. The percentage of students over 14 years of age who are enrolled in primary education increased significantly between 1991 and 1999, although this growth levelled off from 1998 to 2000. This trend reveals the re-entry of students who had left school in previous years, indicating their desire to return and complete their mandatory schooling.

482. However, in spite of the fact that the problem continues to be serious, highly positive progress has been made with regard to the flow indicators. The age-grade distortion rate fell in the country from 64.1 per cent in 1991, to 46.6 per cent in 1998, and to 37.3 per cent in 2001. The reduction was more pronounced in the initial grades, a trend that is clearly associated with the initiative in many education systems to implement classes designed to accelerate learning, with the ultimate aim of eliminating, in this way, the problem of repetition.

483. From a regional perspective, the most serious problems relative to the age-grade distortion are found in the north-east and north, which, in 2001, respectively produced the worst rates, 57.1 and 52.9 per cent. The contrast is more pronounced when those rates are compared, for example, to the rate of age-grade distortion in the south (21.6 per cent), the south-east (24 per cent) and the centre-west (38 per cent).

484. A positive trend can be observed, however, in the principal variable indicators. Obviously, these gains must be expanded through strengthened policies, for purposes of improving quality and increasing the efficiency of the educational system.

485. The strategies adopted by the Government, disseminated throughout the three levels of Government, with the support of civil society organizations, have been aimed at solving the problems of repetition and absenteeism and reduce the age-grade distortion. The Learning Acceleration Programme, currently in the process of being implemented in the different regions, is part of this effort. Through its channels, the federal Government finances the introduction of special classes for students who fall within the age-grade distortion category by two or more years, so as to provide them with specific educational assistance that allows them to complete, in a shorter time, the schooling they need to enter classes more appropriate to their age. Between 1998 and 2000, more than 3.5 million students were served by these programmes. The publication of statistical data on basic education helped in defining the measures that were required and monitoring the progress achieved.

Table 21

**Primary education, aggregate transition rates,
Brazil, 1990-1999 (percentage)**

Year	Promotion	Repeat rate	Absenteeism
1990	60	34	6
1995	65	30	5
1997	73	23	4
1999	74	21	5

Source: MEC/INEP/SEEC.

486. The positive trend in transition rates, bolstered by the progressive fall in repeat rates and absenteeism, and higher levels of students passing to the subsequent year, have allowed for a significant increase in the number of persons completing primary education. In the 1995 to 1999 period, this statistic registered a 44.4 per cent jump, compared to a 10.7 per cent rise in school enrolment rates. The trend should continue in the coming years, driving demand for and, consequently, the growth of enrolment rates in secondary education, which can already be seen.

487. Additionally, it is important to point out that, as a legislative measure to prevent absenteeism, the Statute of the Child and the Adolescent establishes the obligation of the directors of early-childhood education and primary education establishments to notify the Tutelage Council of repeated unexcused absences and absenteeism, when the measures available to the school have been exhausted, and in cases of high levels of repeat rates, as well as mistreatment involving their students.

488. As another strategy for preventing school absenteeism, ECA establishes that the Government must promote research studies, experiments and new proposals relative to school calendars, curricula, methodologies, learning and evaluations, all to enable the insertion of children and adolescents excluded from the mandatory primary education system and an evolution in the quality of teaching.

489. The data presented above allows us to conclude that the central question of Brazilian primary education is not quantitative, but, rather, qualitative. With respect to the quality of schooling, the measures taken have been positive, as indicated by the SAEB results, yet limited: they have been mainly directed toward increasing the financial autonomy of schools and promoting participation by school councils in their management.

490. The development and diffusion of curricular parameters and references for all levels and types of basic education, in conjunction with the implementation of distance education programmes, School TV (TV Escola) and the National Computer Science Education Programme (Proinfo), and the expansion of the National Textbook Programme, which distributes school books to close to 32 million students, are just some of the initiatives developed by the federal Government to improve the quality of service.

491. The School TV Programme, aimed at improving the quality of education, distributes a kit that includes a television, video cassette player and parabolic antenna to all primary schools with more than 100 students. Today, more than 56,000 schools are equipped with a kit.

492. The basic objectives of Proinfo are to: democratize access to telematics, educate in a manner that enables persons to exercise their citizenship in the modern world and provide public school educators and students with the opportunity to use modern information and telecommunications technologies. Through 2000, the programme achieved significant results: 244 educational technology centres (NTEs)⁵⁰ spread throughout the country; 31,870 computers distributed; 21,977 teachers trained; and 2.5 million students served.

493. These programmes are directly related to the provisions established in the Convention on the Rights of the Child with respect to the need to expand opportunities for acquiring the knowledge, skills and values necessary for ensuring a better life through modern communication media.

494. The following should also be highlighted: the Acting Lay Teacher Preparation Programme (ProFormação) and the Direct Money to Schools Programme. Proformação is a secondary-level teacher-training course that employs distance education to prepare teachers who, although lacking the specific qualifications, teach the initial grades of primary school and literacy classes. Launched on a trial basis in 1999, the programme has prepared 23,419 teachers from 1,107 municipalities in the north, north-east and centre-west. Currently, 8,422 teachers from 361 different municipalities are enrolled in courses.

495. Established in 1997, the Direct Money to Schools Programme transfers federal resources directly to educational establishments, in order to satisfy day-to-day and emergency needs

without the burdens of the usual red tape, thereby enabling greater autonomy and social participation in the administration of schools. In requiring the creation of Parent-Teacher Associations as a condition for the transfer of federal resources, the programme contributes toward integrating families and schools.

496. In addition, compensatory programmes aimed at correcting the effects stemming from social and income inequalities that have an impact on a large percentage of Brazilian families also contribute toward increasing the success of low-income students in school. Among these, the following deserve mention:

- The National School Meal Programme (PNAE), which provides a daily meal to all children enrolled in public or philanthropic primary and pre-schools during the 200 days of the academic year;
- The North-east Project (Projeto Nordeste), executed between the years of 1993 and 1999 and involving the application of nearly US\$ 740 million of domestic and foreign resources, provided in the form of loans from the World Bank, for purposes of improving the country's neediest region;
- The School Improvement Programme, which replaced the North-east Project and has ensured continuity of the federal Government's investments, on the order of US\$ 1.3 billion, in primary education in the north, north-east and centre-west, has the following mission: to increase the performance of the public education systems by improving schools and the technical capabilities of the education secretariats; and to secure the participation of society at large in education; and
- The National School Grant Programme, which extends financial assistance to poor families aimed at ensuring their children and adolescents remain in school.

497. Since 1995, Brazilian municipalities and states have executed the Guaranteed Minimum Income Programme, in conjunction with improvements in education. In 2001, the Federal School Grant,⁵¹ which was integrated to the broadest social programme developed within the Alvorada Project, was established. In 2002, the Ministry of Education inaugurated an operational structure capable of assuring the programme's implementation in all Brazilian municipalities.

498. The scope of the National School Grant Programme's activities were delineated based on the fact that today there are nearly 10.2 million children between the ages of 6 and 15 in Brazil, originating from families with a monthly per capita income of less than R\$ 90. The programme's objective is, therefore, to serve approximately 5.6 million families throughout the country.

499. In merging the issues of education and minimum income, Brazil became an example internationally. In various countries, it was found that granting monthly financial incentives to families living in poverty combined with investments in social capital constitutes one of the most effective strategies for combating poverty.

500. The requirement that children remain in school has proved to be of enormous social significance. The attendance rate upon which receipt of the financial assistance is conditioned reflects the determined efforts of the State's overall policy to achieve quality universal education. In addition, in constituting a mechanism for expanding the economic, cultural and social horizons of low-income families, the programme contributes toward reversing the cycle of misery to which the families and an entire new generation are subject.

501. Currently, the programme reaches 5.1 million families, encompassing 8.7 million children throughout the country who receive the benefit. If the goal mentioned above is met, almost one in every three children in the public primary education system in the country will benefit from the programme.

3. Secondary education

502. Pursuant to the LDB, the objectives of secondary education among others, are: to provide basic preparation for the employment market and the full exercise of citizenship, as well as continued learning; to help students grow from a humanistic standpoint, including as regards their ethical formation and the development of intellectual independence and critical thinking, as well as to understand the scientific and technological principles of the productive processes. In this way, secondary education should serve as the basic condition for ensuring that every Brazilian can occupy an autonomous position in adult life.

503. According to preliminary results of the education census 2002, enrolment in secondary education expanded by 72 per cent between 1994 and 2001, reaching a total of almost 8.8 million students, 87 per cent of whom were integrated in the public system. This increase represents the enrolment of previously excluded youths in the secondary education system.

504. Completion of this level of education rose by 100.2 per cent between 1994 and 2000. This increase can be explained by the expanded offering and improved quality of primary education, which resulted in a reduction in repetition and dropout rates. There is, then, greater demand for openings in higher education, as well as post-secondary professional courses, particularly because of the new requirements of the productive sector, all of which has the effect of returning people who had abandoned their studies to school.

505. There are signs, nonetheless, that secondary education could expand even more in the coming years, considering that only 32 per cent of the population between the ages of 15 and 17 years is currently enrolled at this level of education.

506. Lastly, it is important to mention the University Diversity Programme launched by the Ministry of Education and aimed at youths and adults from the Afro-Brazilian, indigenous and other socially disadvantaged communities, to improve the conditions and opportunities for these segments to enter and remain in higher education.

507. The programme has a budget of US\$ 9 million, of which 5 million were obtained through a loan granted by the Inter-American Development Bank (IADB), which will be used to finance studies and research aimed at developing a policy of social integration and for combating racism and ethnic and racial discrimination in secondary and higher education.

508. The programme provides for the institutional consolidation of the Ministry of Education within a period of three years, so that it can begin to act as an instrument for combating racial and ethnic discrimination. In addition, it must also encourage “innovative course projects” intended to promote access to higher education and bolster the performance of socially disadvantaged students in secondary education, with an emphasis on Afro-Brazilians and indigenous persons.

509. At the outset, six pilot projects in Bahia, São Paulo and Rio de Janeiro received R\$ 342,438 to serve 820 students who are in, or have completed, secondary school and are preparing to enter the higher education system. Community-college entrance exam courses will be offered, with a minimum course load of 400 hours, including classes, social development activities and access to cultural riches. Each student will receive a grant ranging from R\$ 40 to 50.

4. Professional education

510. Professional education was connected to secondary education until the passage of the LDB, when it was given its own identity, the outstanding characteristic of which is the development of integrated educational actions in the area of employment, science and technology, and which endeavours to channel the student into a productive life through a process of the permanent development of skills.

511. The objective is to develop courses that provide employment opportunities to youths and facilitate their access to the marketplace. The courses also seek to serve those professionals who are already in the labour market but feel the need for a higher level of qualification to perform their activities, while they also serve, additionally, as an effective instrument for workers to re-enter the labour market.

512. In a country like Brazil with marked physical, social and cultural, and economic differences, the educational model adopted for professionalizing workers is flexible, and new curricula are introduced to serve the needs of the domestic market and the different regions of Brazil, as well as adapt to the requirements of the productive sectors.⁵²

513. Professional education in Brazil is developed by the educational networks and stimulated by the Professional Education Expansion Programme (PROEP), an initiative that enjoys resources on the order R\$ 500 million derived from domestic sources and financing from the Inter-American Development Bank. Between 1998 and 2002, 326 school-construction, remodelling or modernization projects were approved within the scope of the programme in all 27 states of the federation, and from which 23,650 students enrolled in higher-education technology courses, 360,000 students in secondary-level technical courses and 1,800,000 students in basic professional courses (which do not require completion of a determined educational level) currently benefit.

514. According to the professional-education survey conducted in 1999, 3,948 institutions, predominantly in the private sector, offered professional-education courses to a total of 2.8 million students, with the basic professional level having the largest percentage of

enrolled students (71.5 per cent). The corresponding percentages at the technical and technological levels, in which the public system was more active, were 25.1 and 3.4 per cent, respectively.

515. An analysis of the courses by industry demonstrates that those concentrated in services attracted the highest number of enrolments. Nearly one third of the enrolments were concentrated in computer science and business administration.

516. The special survey also revealed that there were 33,000 professional education courses in Brazil, the majority of which, 83.5 per cent, were basic level courses. There were 5,000 technical-level courses throughout the country and 433 technological-level courses. The main courses offered are: computer science, management, industrial studies, agricultural studies, mechanics and metallurgy, health care, civil construction, personal care, tourism and hospitality, and environmental studies.

5. Access to higher education

517. Since 1988, higher education has undergone a sweeping process of reforms, intensified beginning in 1995, when the National Council on Education redefined the bases for establishing new institutions of higher learning,⁵³ founded on ensuring expansion with quality in order to meet the growing demand for higher education. The principal merit of the new regulation was in establishing the need for periodic recredentiaing of the institutions, based on an evaluation of the performance of the courses and the institution as a whole.

518. With regard to access to higher education, each institution of higher learning was granted the freedom to adopt more than one selection process⁵⁴ in addition to the college-entrance exam, provided the constitutional principles of equality of conditions was observed, as well as the criteria involving equity and completion of a secondary-level education or the equivalent.

519. Beginning in the second half of the 1990s, there was a resumption in the growth of higher education, following a long period of stagnation. In fact, between 1995 and 2000, the rate of growth was 53.1 per cent. Most of the enrolments in 2000 were concentrated in private institutions (67.1 per cent), while the federal and state systems accounted for 17.1 per cent and 12.3 per cent, respectively. As to gender, women represented 56 per cent of the enrolments in higher education.

520. In spite of the progress witnessed in recent years, Brazil will have to undertake extensive efforts to increase the rate of individuals with a higher education, given that, in 2001, only 9.2 per cent of the Brazilian population between the ages of 18 and 22 years attended an institution of higher learning.

6. Education of indigenous persons

521. The Constitution of Brazil establishes that indigenous persons receive a differentiated education when it determines that "indigenous communities shall also be assured the use of their native tongues and their own learning processes" in the context of regular primary education. Indigenous education policy is set forth in detail in section VIII.D "Children belonging to minorities or indigenous groups" (paras. 670-682).

7. Special education

522. In accordance with the federal Constitution, which establishes the right of persons with special needs to an education, preferably in the regular school system, as well as the Convention on the Rights of the Child, the Ministry of Education has worked to develop programmes that support the integration of children with special educational needs into the regular school system. On this front, the remaining challenges are: sensitizing the other students and the community in general as to the importance of including these students; qualifying teachers to attend to these students in regular schools; adapting schools so as to enable special students to circulate freely; and offering specially-equipped means of transportation.

523. It is important to note that the educational legislation also considers specialized assistance, whether in special classes within regular schools, or in specialized schools intended, in this case, to serve those students for whom the integrated educational system is not a feasible alternative because of the conditions of the student and the educational system.

524. The offering of special education, which is a constitutionally prescribed duty of the State, begins with the integration of children up to the age of 6 years in the early-childhood education system. Special education may be offered at all educational levels, while respecting the potential and abilities of each student. As to the type of education, special education must adhere to the same curricular requirements of the respective educational levels to which it is associated. Moreover, to fulfil the policy of integration, the educational systems must adopt the document on “curricular adaptations”, which sets forth the guidelines for the construction of a diverse educational system.

525. Special education may be offered in public or private institutions. Although enrolments in special education are concentrated in the private educational system (59.6 per cent, 2001), 70.6 per cent of the educational establishments that offered this option were public.

526. Special-employment education is an alternative that aims at integrating students with disabilities into society through the offering of professional training courses. This is accomplished by adapting employment training programmes and including students in professional basic level education courses,⁵⁵ regardless of their previous level of education, as well as technical and technological-level courses, thereby enabling their entry into the employment market.

527. In 2001, the assistance provided by educational level produced the following results: 94,666 children in early-childhood education; 156,083, in primary education; 967, in secondary education; 12,913, in youth and adult education. Those cases classified as “others” totalled 58,770.

528. Although the actions taken by the Government in recent years have fallen short of the country’s actual needs, they have provided some stimulus for special education, which has translated into an increase in the access of students with special educational needs to schools. According to the preliminary figures of the education census 2002, there was a rise of 36 per cent in enrolments in regular classes. The average annual growth rate in previous years had been 23 per cent.

529. At the international level, the Educational Diversity in the Mercosur Countries Project, developed with the technical support of UNESCO and financing from the Organization of American States (OAS). The purpose of the project is to contribute toward improving quality and securing greater equity in education by developing schools that offer educational solutions, not only with regard to special learning needs, but also with respect to the diversity of student bodies, thereby ensuring that the high levels of failure, absenteeism and repetition are overcome, above all by means of the qualification of human resources.

B. The objectives of education

530. In assuring the right of education, the 1988 Brazilian Constitution establishes the following as the central objective of education: the full development, preparation for the full exercise of citizenship and employment qualification of the individual. It also sets out the principles on which education should be provided, emphasizing the need to guarantee the equality of conditions required for accessing and remaining in school. In addition, the Constitution established that the family, society and the State have the duty to assure that the child and the adolescent are protected from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

531. The Statute of the Child and Adolescent reiterates the constitutional right to education and, additionally, ensures: the right to be treated with respect by educators; the right to question evaluation criteria; the right to organize and participate in student organizations. It also establishes the right of parents and guardians have knowledge of the educational process, as well as participate in the definition of educational proposals.

532. The Law on Directives and Bases (LDB) emphasizes the need to elaborate an educational proposal for each school and the need to bring families and the community into the process, thereby creating processes for integrating society at large into schools. In addition, the law provides for participation by school and local communities in the school councils or equivalents. Moreover, to contribute toward this process of integration, the Ministry of Education has promoted a “Families in School” campaign, which is a biannual national mobilization effort to stimulate greater interaction with families in schools.

533. The National Human Rights Programme, implemented in 1996 and updated in 2002, in conjunction with the Convention on the Rights of the Child, established, within the context of the promotion and safeguarding of human rights, proposed actions related to education, of which the following bear special mention:

- Investing in the qualification of professionals responsible for promoting and protecting the rights of children and adolescents within the scope of public institutions and non-governmental organizations;
- Training primary and secondary schoolteachers to promote a discussion of the overlapping themes included in the National Curricular Parameters;
- Promoting education founded on tolerance, peace and the respect for differences, which considers the country’s cultural diversity;

- Stimulating student associations at all levels and the establishment of school councils made of families, entities, non-governmental organizations and associations to oversee, evaluate and develop programmes and school curricula;
- Proposing measures aimed at the democratization of school processes performed by the administrators of state and municipal public schools, with the participation of school and local communities; and
- Assuring the residents of runaway slave communities (*quilombos*) and indigenous peoples a differentiated education that respects their social and cultural and linguistic traditions.

534. It is worth noting that after the National School Library Programme was implemented, in 1997, the Ministry of Education established that public primary schools with more than 250 students⁵⁶ would receive a collection of 125 titles, among them The International Declaration on the Rights of the Child and the Statute of the Child and Adolescent. In addition to the Ministry of Education's efforts, we must also consider the work of the state and municipal education secretariats, as well as that of the Councils on the Rights of Children and Adolescents and various non-governmental organizations.

Curriculum setting: methodological content and guidelines

535. The Law on Directives and Bases establishes a common national base regarding the curricular content of the basic education system. The primary and secondary education curricula must encompass, in addition to content on the Portuguese language, mathematics, the natural and geographic sciences: the arts, the objective of which is to promote the cultural development of students; physical education, which must be adapted to each age group, as well as the conditions of the particular school population; Brazilian history, which must take into account the contributions of the different cultures and ethnic groups, especially the indigenous, African and European traditions, in the development of the Brazilian people.

536. In this context, the LDB establishes, on an equal basis, that the curricular content developed for the basic education system must adhere to the following directives:

- “ I. The dissemination of basic values that are of interest to society as a whole, the rights of citizens, respect for the common good and the democratic system;
- II. Consideration of the educational conditions of students in each school;
- III. Employment counselling; and
- IV. Promotion of educational athletics and support for informal physical activities.”

537. Among the primary components of the reforms undertaken in the 1990s, the most important was the reform of school curricula initiated through the launching of the National Curricula Directives, implemented by the National Council on Education, which has normative

effect and serves to support the National Curricular Parameters (PCN) at the different educational levels. In addition to the traditional curriculum (Portuguese language, mathematics, natural sciences, history, geography, arts, physical education and foreign languages), the PCN includes the “Transversal Themes”.

538. We can see that the social questions of the day are not sufficient, nor are they necessarily considered within the traditional areas of study. Therefore, if schools intend to remain in harmony with current social demands, they must address questions of daily life that impinge on the lives of students. Because of their unquestionable importance in the development of students, social themes have been discussed and routinely incorporated in natural and social science curricula, having evolved, moreover, into new areas of study altogether. More recently, some proposals have indicated a need for the consideration of overlapping social themes in schools as a way to reflect on their complexity, without restricting such reflection to a single area.

539. “Transversality” presupposes an integrated focus on all relevant areas and a commitment with interpersonal relations in the schools. This enables the specific articulation of the values that are trying to be transmitted and coherence between these values and those practised in the school setting. The idea is to develop the ability of all to intervene in present-day reality and transform it, with this ability having a direct correlation to the access to the knowledge gained by humanity.

540. The set of documents on transversal themes discusses the need of schools to fulfil their social function on the basis of general and unifying values that define positions with respect to the dignity of the individual, the equality of rights, the participation and shared responsibility in the effort to transform the right of all persons to citizenship into a reality.

541. The transversal themes chosen to comprise the PCN are: ethics, cultural plurality, environment, health, sexual orientation, work and consumption, given that these involve current and urgent social questions of national and even global scope. (A more detailed discussion of the issue is presented in Annex II - “Transversal Themes of the National Curricular Parameters.”)* In addition to the importance of adjusting the themes to particular conditions and realities, local themes must also be chosen.

542. In all areas of the PCN, the effort has been to identify the social dimensions of learning in the construction of citizenship, leading, in this way, to the selection of content that has social relevance and is potentially significant for the development of emotional, cognitive, motor, ethical and aesthetic skill and those related to social interaction and integration. In addition, the National Curricular Parameters are based on the principles of liberty, solidarity, respect for cultural pluralism and an emphasis on the full exercise of citizenship.

543. The implementation of the National Curricular Parameters is in the process of being executed as a result of the Parameters in Action Programme, the purpose of which is to support and encourage the professional development of teachers and specialists in education in a comprehensive manner through the introduction of the PCN and the National Curricular Reforms

aimed at: early-childhood education, indigenous education and youth and adult education. The central idea of the programme is to stimulate shared reading experiences, group work, mutual understanding, cooperative learning by preparing monitors to work together with teachers so as to train them to apply new curricular content.

544. In the field of Science, the Ministry of Science and Technology (MCT) and other agencies support various educational programmes and proposals. A full description of MCT initiatives that are directed toward children and adolescents is provided in Annex III.* The following programme, however, bear mention:

- The “School in Space” Programme was developed by the National Institute for Space Research (INPE) in conjunction with the Brazilian Space Agency. It was implemented in 1999 for purposes of disseminating space-related activities among students in secondary school and motivating them to choose a profession that would enable them to work directly or indirectly in the field of space;
- The environmental education project Small Science Forest Guides, implemented by the National Amazonian Research Institute (INPA), provides “small guides” training courses to children and adolescents, 10 years of age and older;
- The Little Researcher’s Club, headquartered in the Goeldi Museum, is intended to stimulate an interest in the sciences by primary and secondary school students through theoretical and practical experiments. The Goeldi Museum also developed the Itinerant Museum Project, which offers municipalities in the state educational programmes such as exhibitions, courses, workshops, theatre and dynamic games, in addition to courses on alternative hygiene, health and nutrition;
- The Brazilian Mathematics Olympics is open to all primary (beginning in the fifth grade), secondary and university-level students. It is aimed at employing mathematics competitions as vehicles for improving the teaching of the subject in the country, in addition to contributing to the early discovery students with special abilities in the sciences in general; and
- The Sky Observation Programme, developed by the Museum of Astronomy and Science, is a regular service offered to the student population to observe the night sky through modern telescopes. The activity includes a presentation of the sky from each station by means of multimedia resources and direct observation through instruments. The museum also has an “inflatable planetarium”, from which images of the solar system and universe are projected.

C. Rest, leisure and cultural activities

545. The federal Constitution includes a special chapter stipulating the duty of the family, society at large and the State to make it their absolute priority to assure all children and adolescents the right to leisure and culture. It guarantees all individuals, therefore, the full

exercise of their cultural rights and access to national cultural resources. In addition, it sets forth provisions with respect to supporting and promoting the appreciation and dissemination of cultural expression, as well as the Government's duty to encourage and promote the safeguarding of the country's cultural heritage in cooperation with the community.

546. The Child and Adolescent Statute (ECA) establishes that the educational process shall respect the cultural, artistic and historical values unique to the child's and adolescent's social context by guaranteeing them the freedom of expression and access to cultural resources. The text of the ECA requires that municipalities, with the support of the states and the federal Government, stimulate and set aside resources and locations for cultural, athletic and recreational activities aimed at children and youths.

547. As a measure for protecting children and adolescents and respecting their unique condition as developing individuals, Ministry of Justice Administrative Rule No. 796, in force since 2000, establishes that public entertainment and performances must be rated as either open to the general public or inappropriate for specific age groups. The administrative rule also sets forth that the rating must specify the type of public entertainment or performance, including time and age group restrictions, scenes that contain excessive violence, are sexually explicit, or offensive to core ethical values. The ECA defines as an administrative infraction the failure to place a notice concerning the age rating at the entrance of the location where the performance is to be presented as well as on all promotional material.

548. The programmes, projects and actions developed by the Ministry of Culture are aimed at society in general, not at any specific group based on gender, age or race. However, the activities that target the child-youth segment are significant, whether by providing access for children and adolescent to cultural treasures and services or contributing toward their development and integration into the community. In this context, we highlight below some of the actions aimed at promoting reading, music, performing arts, cinema, preservation of the country's cultural heritage and the development of the runaway slave communities (*quilombos*).

549. The One Library in Every Municipality Project has promoted the expansion of the public library system through the opening of 1,551 libraries throughout the country, that is, 40 per cent of the current total (3,800). In the north-east, the primary beneficiary of the programme, 379 libraries have been opened. The project associated itself, in partnership with the Brazilian Reader's Institute, to the Project "To Read Is to Know", so as to expand the use and familiarity of youths, children, families and teachers with books, newspapers, magazines and computers. One of the central goals of this centres on introducing, improving and managing libraries in day-care centres and nurseries, particularly in the large outlying neighbourhoods of urban areas considered at risk.

550. Within the scope of the programme, libraries specialized in Afro-Brazilian and African culture and literature have been built and/or adapted in the remaining runaway slave communities (*quilombos*) and in regions with large black populations. In partnership with the private sector and institutions representing the black movements, a pilot programme that includes the production of material to be used throughout the school system has been implemented centred on turning discriminatory situations into opportunities for valuing diversity.

551. The Band Support Project is aimed at extending appreciation for and disseminating instrumental music by encouraging the participation of youths in musical groups and promoting music as an instrument for young people's socialization and the development of citizenship. In all regions of the country, 1,850 bands have received support. Since 1995, the Villa-Lobos Museum has developed the Miniconcert Education Programme consisting of recitals presents by young instrumentalists to public and private-school, music-school and day-care students and at education institutions for homeless children.

552. The National Circus School takes on nearly 200 students in its circus training programme every year. The Circus Stimulus Award offers circus performances to needy children either at special prices or free of charge. The "EnCENA Brasil Project" benefits children and youths by selecting theatre and dance groups to put together performances and tours.

553. The effort to raise sensitivity among public and private school students on the need to preserve the country's cultural heritage has been expanded through measures promoted by museums and the culture secretariats aimed at preparing these same students to better these treasures and strengthening their sense of identity and citizenship.

554. The 1988 Brazilian Constitution sets forth the State's duty to foment formal and informal physical activities. The national curricular programme for physical education affirms the right of all to body-movement activities. It considers the knowledge generated by movement activities intended for recreation, the expression of feelings, affection and emotion to fundamental for recovering, maintaining and improving health.

555. Among the Government initiatives in this area, those deserving mention include the National Physical Exercise Promotion Programme (*Agita Brasil*), created by the Ministry of Health. Directed to the population in general, but with a special emphasis on children and adolescents, the programme is easy to apply, inexpensive and highly beneficial in its promotion of health, providing additional benefits such as an increase in class attendance, improved parent-child relationships, reduced behaviour problems and lower rates of drug use. As recognition for the success achieved by the programme in Brazil, the World Health Organization chose *Agita World*, inspired by *Agita Brasil*, as its theme for 2002.

VIII. SPECIAL PROTECTIVE MEASURES

A. Children in exceptional situations

1. Refugee children

556. Protection of refugees has been covered in Brazilian legislation through the internalization of three international agreements: (a) the Convention Relating to the Status of Refugees, of 28 July 1951, through Decree number 50215/61; (b) the Protocol Relating to the Status of Refugees of 31 January 1967 through Decree number 70946/72; and finally (c) the Convention Relating to the Status of Stateless Persons of 28 September 1954, internalized through Decree number 4246, on 22 May 2002. In addition to these international agreements, Brazil's federal Law No. 9474 (22 July 1997) creates mechanisms for the implementation of the 1951 Convention on Refugees. None of these legal documents has specific provisions for the protection of refugee children, who are covered by the general provisions contained therein.

557. Some of those provisions can in fact be useful, at least indirectly, for the protection of refugee children. When Brazil adopted the Convention relating to the Status of Refugees, it guaranteed to refugees the same treatment given to nationals in terms of primary schooling, as provided by that Convention's article 22. It also guarantees refugees the rights under its labour laws regarding the minimum age for employment, apprenticeships and professional training, as provided in article 24 of both the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons.

558. Article 2 of Law No. 9474/97 provides that the rights of refugees also apply to their descendents. Article 21, paragraph 2, of that same law also requires that the protocol used to request refugee status must include a list of children under 14 years of age. The appendix on the Convention relating to the Status of Stateless Persons (para. 2) also provides that, except as otherwise provided by a country's regulations for the issuance of travel documents, children may be mentioned in one of the parent's documents or, in exceptional circumstances, in that of another adult.

559. Brazil's federal Constitution, in the chapeau of its article 5, also assures equality between nationals and foreigners. Considering that article 5 of Law No. 9474/97, also assures equality between nationals and foreigners. Considering that article 5 of Law No. 9474/97 provides that refugees will enjoy the rights and be subjected to the duties of foreigners in Brazil, it is understood that refugees taken in by the Brazilian State will be treated as if they were nationals, except with regard to what is impossible due to the nature of their situation. These provisions also refer to children. Therefore, even if Brazilian law contains no specific protective measures for refugee children, they are to be protected by all provisions referring to children under the country's legal system.

2. Children in armed conflicts

560. In 2002, Brazil signed the Optional Protocol to the Convention on Children's Rights, relating to the involvement of children in armed conflict. Brazil thus expressed its commitment, under article 1 of the Protocol, not to allow any member of its armed forces younger than 18 to participate directly in armed conflicts.

561. Article 2 of the same Protocol provides that no one under the age of 18 may be compulsorily recruited into their armed forces. Under article 3, States must guarantee that enlisted volunteers be over the age of 15. Also to keep children from being involved in armed conflict, Brazil adopted Convention No. 182 (1999) of the International Labour Organization on the prohibition and immediate action for the elimination of the worst forms of child labour. In outlawing the worst forms of child labour, this Convention (art. 3 (a)) identifies one such form of labour as the forced or compulsory recruitment of children for use in armed conflict.

562. The chapeau of article 227 in Brazil's Constitution provides for the right of children and adolescents to life, to health and to a decent existence, safe from any form of violence. All other special protection measures for children regarding their involvement in armed conflict also reflect these constitutional provisions.

563. The Statute of the Child and Adolescent makes no explicit reference to the involvement of children and adolescents in armed conflict. The lawmakers did, however, assure that minors should be kept at a distance from weapons and ammunition. Article 79 of the statute, to this end, forbids magazines and publications that target young people from containing illustrations, photographs, captions, essays or advertisements that refer to weapons or ammunition. In its article 81-I, the statute forbids the sale to children or adolescents of weapons, ammunition or explosives. Article 243, finally, qualifies as a criminal offence the act of selling, providing (even for free) or delivering in any manner to a child or adolescent a weapon, ammunition or an explosive device. The penalty for whoever commits this crime is confinement for a period of six months to two years, plus a fine.

564. Federal Law 4375, of 17 August 1964, as it refers to military service, provides minimum allowable age limits for military duty in the armed forces, both for active service and in the reserves. All this law's provisions are in accordance with international treaties signed by Brazil and with the principles of special protection for children provided by the federal Constitution.

565. Under article 3 of this law, military service is done first by Brazilians born between 1 January and 31 December of the year when they become 19 years old. Article 5 provides that one's military obligations in times of peace begin on 1 January of the year when the adolescent will turn 18. Paragraph 2 of this article only allows for voluntary military service to be done by persons over 17 years of age. Article 13 in this same military service law, states that all Brazilians must report during the year in which they turn 18. Article 17 provides that the recruits for active service or for the reserves must be Brazilians who have turned 19 between 1 January and 31 December of the year when they should join the armed forces.

566. Therefore, Brazilian law is in accordance with article 38 of the Convention on the Rights of the Child, as it does not allow adolescents under the age of 18 to actually participate in armed conflicts, nor may those younger than 15 enlist, even as volunteers.

567. In line with the federal Constitution, the constitutions of 10 states - while they do not refer specifically to the involvement of children in armed conflict - determine that children and adolescents must be kept safe from any form of violence, as a result of their right to life, to health and to a decent existence. The constitution of the State of Amazonas has one such provision in its article 242, paragraph 4; the constitution of Acre in its article 210, chapeau; the constitution of Pernambuco in article 226-I; for the Federal District it is in the chapeau of article 267, for Rio Grande do Norte, in article 157, chapeau; for Pará, in article 296, chapeau; for Mato Grosso in article 206, chapeau; for Minas Gerais, in article 222, chapeau; for Maranhão, in the chapeau of article 252; and in the constitution of the State of Amapá, in the chapeau of article 304.

B. Adolescent offenders

1. Administration of justice for children and adolescents

568. Under Brazilian law, the children and youth justice system is to be administered by full magistrates, with states and the Federal District allowed to create specialized juvenile courts to deal exclusively with children and adolescents. It is up to the judicial branch to establish their

proportionality to the number of inhabitants, to provide the courts with infrastructure and to define their operation, including standby operation (Statute of the Child and Adolescent, art. 145).

569. The Juvenile Court is responsible for many activities, including:

- Judging the representations moved by the Office of the Attorney-General for purposes of verification of the infraction attributed to the adolescent;
- Granting remission, as a form of suspension or extinction of the proceedings;
- Judging petitions for adoption and their incidents;
- Judging civil suits founded upon individual, de facto or collective interests rebated to the child or adolescent;
- Judging suits consequent upon irregularities in assistance entities, applying the appropriate measures;
- Applying administrative penalties in cases of infractions against norms of child or adolescent protection;
- Judging cases remitted by the Council of Guardianship;
- Judging requests for custody and guardianship;
- Judging suits involving removal of paternal power;
- Granting emancipation in the absence of parents; and
- Determining the cancellation, rectification and providing of birth and death certificates.

570. To provide support for the courts, the law provides for the presence of an inter-professional staff, responsible for supplying written subsidiary information by means of reports, presented either orally or at hearings, as well as for performing the tasks of counselling, orientation, channelling and prevention. These activities are directly subordinated to the courts, with the guarantee of free expression of technical opinions (art. 151).

571. Brazilian law on juvenile courts is thus in accordance with the Convention, both in terms of civil suits (loss of paternal power, custody and adoption, for example) and vis-à-vis the prosecution of offences committed by adolescents. The lawmakers also made ample use of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

572. In all of Brazil's state capitals and in the national capital (Federal District) there are specialized courts, most of which already have professional, technical staff. In addition, several states also have juvenile courts in the larger cities of the interior.

573. Judges and prosecuting attorneys have their own association (the Brazilian Association of Juvenile Judges and Prosecutors, ABMP) which is quite active in the dissemination of information about the rights of children and adolescents, as well as in the training and specialized education of peers, through congresses, seminars and a site on the Internet. The Public Ministry also has coordinating bodies and support centres for the specialization of prosecuting attorneys, and the Public Defenders' offices also organizes specialized coordinating bodies.

2. Detained adolescents, including forms of confinement, imprisonment or placement under custody

574. Brazil's Constitution ensures that no one shall be imprisoned unless they are arrested in the act (in flagrante delicto) or by a written, justified order issued by a competent judicial authority (art. 5-LXI). The Statute of the Child and the Adolescent repeats this constitutional provision in its article 106.

575. Children may not be confined. Only adolescents can be confined, when submitted to due legal process with full rights to defence, and only for having committed offences with violence or making serious threats against a person. The longest period of confinement allowed for acts committed by a person under 18 is three years, and it must be served in an establishment created exclusively for adolescents, who are forbidden to be held together with adults.

576. Before the new statute came into effect, juvenile judges or even administrative authorities could place children and adolescents in closed institutions due to behavioural problems or repeated escapes, as punishment or a disciplinary measure. In the case of offenders, there was no relationship between the gravity of the offence and the measure to be applied. Confinement could be stipulated, for example, based on a psychologist's opinion that an adolescent bore the "potential danger" of committing acts of violence. It is needless to recall that the presence of a public defender was not required, making most trials a mere inquisitorial rite led by a judge and the public attorney.

577. While there are some hold-overs from the previous system in the practices of some psychiatric shelters and clinics, where repressive methods still pervade the institutions, the new legal order is spreading and consolidating.

3. Imposition of measures on adolescents, particularly the prohibition of capital punishment and life imprisonment

578. An offence is committed when an adolescent carries out an act defined by law as a crime or as a penal misdemeanour. Children and adolescents do not receive punishment, but adolescents are subjected to socio-educational measures. Children are sent to a Guardianship Council and submitted to protective measures, including medical and psychological treatment, schooling, family orientation, shelters, etc. (ECA, arts. 106 and 101).

579. An adolescent may be arrested in the act of committing an offence (in flagrante delicto) or by a written and justified order issued by a court authority (ECA, art. 106), and in the case of a court order will be immediately remitted to a judicial authority (ECA, art. 171). An adolescent who is arrested in the act of an offence will be remitted to the proper police authority, preferably

to a specialized police station, or if this is not available, then to separate facilities from those used for adults (ECA, art. 172). Most states and the Federal District do in fact have specialized police stations. In no circumstance may the adolescent be held at a police facility, unless the offence was with violence or a grave threat to a person, and even so for 24 hours at the most.

580. After the arrest has been officially recorded, the adolescent should be turned over to his/her parents or guardian, or else (if he/she cannot be released) the adolescent will be immediately remitted to the Office of the Attorney-General (Prosecuting Attorney for Children and Youth), which will either see to the permanent filing of the records, grant remission (with or without some socio-educational measure) or present the case to the judicial authority for children and adolescents, for application of a socio-educational measure.

581. The socio-educational measures provided by the Statute of the Child and Adolescent, in article 112 and the following articles, are in coherence with the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Brazilian law in no way allows for the application of the death penalty, life imprisonment or forced labour, even for adult offenders, by force of a constitutional provision (federal Constitution, art. 5, XLVII).

582. Among others, the following guarantees are ensured to the adolescent:

- Full and formal knowledge of the imputation of an infraction, by arraignment or equivalent means;
- Equality in the procedural relationship, with the right to confront victims and witnesses and produce the evidence required for defence;
- Technical defence by a lawyer;
- Gratuitous and full legal assistance to those in need, according to the terms of the law;
- The right to be heard personally by the proper authority; and
- The right to request the presence of his parents or guardian at any stage of the proceedings. (statute, art. 111).

583. The choice of the measure will consider the nature of the offence, the circumstances under which it was committed and the family and social situation of the adolescent. Socio-educational measures may also be included amongst the protective measures, whenever necessary for the juvenile's educational process. Any measure may be replaced by another, or suspended, at any time.

584. The following measures can be applied to juvenile offenders:

(a) Admonition (art. 115): "The admonition will be verbal and will be expressed in writing and signed." The objective is to make clear to the adolescent the inappropriateness of his/her behaviour, allowing him/her to see the offence recognized as such by a public authority. The measure therefore has an awareness-building nature, to inform, educate and confer responsibility. Its coerciveness lies in the intimidation and in formality of the ritual.

Admonitions are generally used for first-time adolescent offenders and may be an effective means of education, capable of provoking the desired results when the offence arose from typically adolescent, unthinking and precipitous behaviour;

(b) Obligation to repair damage (art. 116): “In the case of an infraction with effects [on property], the authority may, should the case arise, determine that the adolescent restore the thing, see to reimbursement of the damage or, in another way, compensate the victim’s loss.” This essentially offers the adolescent a chance to reflect upon the damage caused to someone else and on the need somehow to repair it. To achieve the desired educational effect, this measure may be accompanied by an admonition or some other appropriate measure. As it is applied, it should consider the financial situation of the adolescent and of his/her family;

(c) The rendering of services to the community (art. 117): “The rendering of community services consists in the carrying out of gratuitous tasks of general interest for a period of not more than six months, at entities of assistance, hospitals, schools and other like institutions, as well as in community and governmental programmes.” The tasks will be designated according to the aptitudes of the adolescent and should be carried out during a maximum period of eight hours per week, on Saturdays, Sundays and holidays or on working days, in such a way as not to hamper attendance at school or normal working hours. This measure has been very effective in providing adolescents a chance to develop constructive attitudes, a feeling of solidarity and social awareness, in addition to making the community share in the socio-educational process;

(d) Assisted freedom (art. 118): “Assisted freedom will be adopted whenever it is considered to be the most suitable measure for the monitoring, aiding and orientation of the adolescent.” The adolescent must be monitored by a trained person, who may be recommended by a treatment entity or programme. Assisted freedom will be determined for a minimum period of six months and can be extended, revoked or substituted by another measure at any time, once the councillor, the Office of the Attorney-General and the defender have been duly heard. The objective here is essentially to promote the insertion of the adolescent into the family, school and workplace, with a monitor designated who is capable of establishing efficient links with the various resources provided by a community. This measure does not provide for a maximum term, and should be maintained as long as there is a need for assistance. This measure has had excellent results and can also be applied during the period of social re-adaptation of adolescents, post-confinement;

(e) The system of “semi-liberty” (art. 120): “The system of semi-liberty can be determined from the beginning or as a form of transition to the open system, thus making carrying out of external activities possible, independently of judicial authorization.” This may be an intermediary state between confinement and release, when the juvenile will have the task of relearning to live in freedom. The adolescent may also be placed in a half-way house as an initial measure. Education and vocational training are obligatory. Semi-liberty is considered to be one of the most complete and effective measures, outside of prisons. Duly supervised and assisted, it allows for a control over behaviour without depriving the youth of contact with family and community. In penitentiary law, it corresponds to the prison-shelter, the third stage of a progressive regime. Although there have been some successful experiences with semi-liberty, there are still very few facilities and programmes that actually implement this measure;

(f) Internment in an educational establishment (art. 121): “Subject to the principle of brevity, exceptionally and respect for the peculiar condition of the person in development.” Internment temporarily removes the adolescent from contact with society and family, by placing him/her in an institution under responsibility of the State. The objective is to allow for specialized attention for youth whose situations do not allow them to benefit, at the moment, from other measures. It involves the temporary deprivation of freedom and is to be carried in at an institution exclusively for adolescents. The maintenance of the measure should be re-evaluated at least every six months by the technical staff advising the judicial authority. In no case can the maximum period of internment exceed three years, and release will be compulsory at the age of 21. In cases of provisional internment (preventive arrest), the procedure must be completed at the most in 45 days. Internment is only for the authors of infractions committed through violence or grave threats against a person, when the case involves repetition in the commitment of other grave infractions, or when there is reiterated and unjustified non-compliance with the previously imposed measure (art. 122). The gravity of the infraction, significantly, is not enough to decree this freedom-depriving measure. In any case, the youth deprived of liberty is not deprived of his/her other rights provided by the Constitution, in the Convention and in article 124 of the ECA. The authority and public agents can in no way practise abuses, which may constitute crimes of abuse of authority, in cases when the person in custody or interned is submitted to vexation or to constraints not authorized by law. It is the duty of the State to see to the physical and mental integrity of the interned and the State has the task of adopting suitable measures of confinement and security (art. 125). There must be rigorous separation on the basis of criteria of age, physical build and temperament and the gravity of the infractions (art. 123). Rights maintained by adolescents deprived of liberty include: to meet personally with the representative of the Office of the Attorney-General; to petition any authority directly; to meet privately with his defender; to be informed of the status of his process whenever he so requests; to be treated with respect and dignity; to remain interned in the same locality or in that which is closest to the domicile of his parents or guardian; to receive visits, at least weekly; to correspond with family members and friends; to have access to the objects required for hygiene and personal cleanliness; to live in lodgings in adequate conditions of hygiene and health; to receive schooling and vocational training; to carry out cultural, sports and leisure activities; to have access to the communications media; to receive religious assistance according to his own belief, whenever he so desires; to retain possession of his personal objects and to have a secure place in which to keep them, receiving a receipt for those which may be deposited in the keeping of the entity; to receive his personal documents required for life in society, upon departure from the entity. In no case will incommunicability be permitted, since this is prohibited by the Constitution even for adult prisoners (Constitution, art. 136).

585. Some States have already adapted their programmes and facilities to the requirements of the ECA, creating and implementing assisted-liberty and community-service programmes, generally run by municipal or community organizations, as well as improving the network of holding facilities, in terms of the dimensions of the facilities as well as the regionalization of care. The federal Government, through the Ministry of Justice and the CONANDA, has been stimulating and providing financial support for State agencies to implement their own plans and projects for institutional re-organization.

586. Table 22, however, shows how the application of measures involving internment of juvenile offenders is used. Since the ECA brought radical changes to the concept and purposes of policies that guarantee rights, the financial cost of their implementation is significant, and the

acceptance of a new philosophy by the agents responsible for assuring respect for those rights takes time. Aspects such as the methods of applying socio-educational measures in appropriate environments, including the shutting-down of internment facilities that are absolutely incompatible with the new philosophy, are still in the process of implementation, even in the country's most developed states.

Table 22**Adolescents subject to socio-educational measures, March 2002**

State	Internment	Provisional internment	Semi-liberty	Assisted freedom	Total/State
Acre	34	12	^a	109	155
Alagoas	35	21	^a	300	356
Amapá	57	20	37	59	173
Amazonas	91	39	61	1 007	1 198
Bahia	126	136	14	418	694
Ceará	187	98	29	743	1 057
Dist. Federal	235	140	87	1 472	1 934
Espírito Santo	54	91	^a	^b	145
Goiás	87	71	7	450	615
M. Gerais	183	97	11	470	761
Maranhão	77	23	8	181	289
Mato Grosso	41	31	11	60	143
M. Grosso Sul	135	60	4	150	349
Pará	64	30	25	130	249
Paraíba	174	26	10	168	378
Paraná	439	351	68	^b	858
Pernambuco	263	84	41	^b	388
Piauí	25	48	^a	18	91
Rio G. do Norte	42	34	14	144	234
Rio de Janeiro	936	97	654	1 083	2 770
Rio G. do Sul	586	162	28	21	797
Rondonia	6	12	1	195	214
Roraima	15	4	9	167	195
Sta. Catarina	32	33	2	35	102
São Paulo	3 708	799	268	11 686	16 461
Sergipe	48	31	3	22	104
Tocantins	13	5	1	11	30
Total	7 693	2 555	1 393	19 099	30 740

Source: FONACRIAD.

^a Measure not yet implemented in this State.

^b FONACRIAD obtained no information on this figure.

587. Nonetheless, in some internment facilities, mistreatment and torture of residents does still occur. These practices reflect the legacy of years and years of treatment through merely repressive forms of people in conflict with the law. They were not considered to be rights-holders, but rather offenders requiring punishment. Directors of those facilities say that one must distinguish between beatings or torture, and defensive actions by prison guards against collective acts of rebellion when the interned aggressively attack guards. In this case, they say, there is a need for more energetic actions that may include acts that cause injuries. In any case, although they are not widespread, there are real cases of punishment involving torture and beating in some facilities created for the purpose of applying socio-educational measures for adolescent offenders. In some states, when there is clear evidence that such acts have taken place, the Government removes the suspected employees and in some cases fires them. Since it is difficult to produce individualized proof of this type of crime, there are nearly no cases at all of punishment applied by courts.

588. In 2002, the country's first major national survey of all of Brazil's internment units was carried out. That project was sponsored by the Department of Children and Adolescents at the Ministry of Justice and by UNICEF, with the collaboration of the Institute for Applied Economic Research (IPEA). It is in its final stages and the results will be published soon.

4. Physical and psychological recovery and social reintegration

589. In discussing socio-educational measures, we must bear in mind that they are aimed not only at punishing the offence committed by the adolescent but also - and above all - that they should be pedagogical in nature. This means that their application promotes recovery and social reintegration. The need for therapeutic approaches must also be assessed, case-by-case, whenever an adolescent shows signs of physical or psychological suffering, which are common in youth living in the world of crime. That is why lawmakers included in article 112 of the ECA the possibility of combining other protective measures with socio-educational measures that would include, for example, referral to physical and mental health treatment, as well as orientation for families.

590. In the context of open measures such as assisted freedom and community service, adolescents are to be referred to service programmes offered by other public policies. When the measure involves deprivation of freedom, the facility's professional staff or outside professionals are responsible for therapeutic care. Currently, one of the system operators' greatest concerns is to provide assistance for adolescents during the post-internment period, since the institution itself may have caused problems. While it is still not the case for all institutions, many State facilities responsible for juvenile offenders are already creating their own programmes to provide for former inmates.

591. CONANDA, as one of its priority policy-making approaches, has determined that the fundamental socio-educational measures are those provided in open contexts. Professionals and educators must receive ongoing training, and there must also be an institutional reorganization in order to integrate work done with families, in educational activities, sports and leisure, also assuring respect for the beliefs of the adolescent.

C. Children submitted to exploitation, including their physical and psychological recovery and their social re-integration

1. Economic exploitation, including child labour

1.1. Historical background

592. While it is true that child labour most often occurs for economic reasons, when families are unable to make a living and therefore make use of their children's labour, it is also a fact that the problem cannot be reduced to economic considerations alone. Hypothetically, this would lead one to conclude that, once poverty is eradicated, child labour will instantly disappear.

593. We must be aware of a negative image that is widespread in Brazilian society, frequently reproduced by the media and even by public authorities: the rhetoric that tries to contrast work and crime, promoting the belief that idle children are more likely to be recruited into illegal activities. It is possible to counter this false paradigm based on two major points. First of all, surveys of Brazil's prison population show that a significant percentage of prisoners began to work young, meaning that having worked was no help to them. Instead, working rather than studying had narrowed their outlooks and chances as adults, leaving them more easy prey for crime. The second and decisive argument fits with the first, namely that the true positive image is actually drawn from the contrast between work and education. True freedom and the only real autonomy an individual can achieve comes from knowledge, from the ability to perceive the world and one's self, to make well thought-out choices and to be part of social life in a healthy and civilized manner.

594. On this basis, we can succinctly illustrate the principles and actions orienting Brazil's initiatives to eradicate child and juvenile labour.

1.2. Figures

595. In 1992, the National Household Sample Survey (PNAD) reported that, in all of Brazil, there were 4,092,580 children and adolescents between 5 and 14 years of age who worked. This situation was alarming, considering the country's political, economic and social difficulties at the time, and particularly the absence of strong, integrated public policies to prevent and to repress child labour.

596. Over the past decade, the situation has changed radically. Policies that integrated federal, state and municipal authorities, together with civil society, produced a structure of agencies and organizations that work together, integrating their efforts and skills to achieve quite significant results.

597. More recent PNAD figures show that 2,231,974 children and adolescents between 5 and 14 were identified as working in 2001. That means an absolute accumulated reduction

of 45.46 per cent over the past decade. From 1999 to 2001 along, there was a 24.86 per cent reduction, with the withdrawal of 740,000 children and adolescents between 5 and 14 from the labour force. (For further information on the reduction of child labour, see annex 1.)*

598. Table 23 below illustrates the number of employed persons between the ages of 5 and 14 in Brazil, that is, who worked at least one hour during the survey's reference week (the last complete week in the month of September).

Table 23

Number of persons between the ages of 5 to 14 employed in Brazil

Years	Children from 5 to 9	Children from 10 to 14	Total
1992	613 843	3 478 737	4 092 580
1993	526 212	3 431 764	3 957 976
1995	518 770	3 269 553	3 788 323
1998	402 016	2 485 489	2 887 505
1999	375 376	2 532 965	2 908 341
1999*	383 251	2 587 281	2 970 532
2001	296 705	1 935 269	2 231 974

Source: IBGE, National Household Sample Survey.

* Numbers corrected based on the 2000 census.

599. PNAD data also show that child labour is concentrated in small family-owned businesses, particularly in the agriculture sector (58.7 per cent of employed children between 5 and 14), with no remuneration. This reveals how many of them are involved in activities that do not actually fit into a rigid definition of "labour", since they do minor tasks and are not subjected to labour discipline. Also, the workload of one hour per week used in the survey is not really appropriate for characterizing a day of work. The conclusion is that the number of children involved in child labour in Brazil is probably even lower than what the official figures suggest.

1.3 Legal order

600. We will now summarize the major public policies adopted by the Government of Brazil, the legal provisions that sustain the integral protection of children and adolescents in Brazil and the major partnerships without which it would be impossible to achieve the goals that have been set.

601. The prohibition of the use of the labour of children and of adolescents in Brazil is stated in the Constitution, in article 7, item XXXIII, as modified by Constitutional Amendment 20 (16 December 1998), which sets the minimum working age at 16:

Article 7 (...) XXXIII - prohibition of night, dangerous or unhealthy work for minors under 18 years of age, and of any work for minors under 16 years of age, except as an apprentice, beginning at the age of fourteen;

602. Protection against exploitation at work arises from the principle of integral protection that the State, society and families provide to children and to adolescents. This principle, which underlies all of Brazil's legal structure, is explicitly stated in article 227 of the country's Constitution:

Article 227 - It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

603. International Labour Organization (ILO) Convention No. 138 (1973) concerning the minimum age for employment and Convention No. 182 (1999) concerning the worst forms of child labour were both approved by the National Congress on 14 December 1999. The President of Brazil signed the respective letters of ratification on 20 January 2000.

604. To implement the Minimum Age Convention, Brazil, in consonance with its own Constitution, has set the minimum age of 16 for adolescents to be admitted to employment or work. The allowance of apprenticeship in Brazil, beginning at age 14, is not an impediment to setting the minimum age at 16, in line with article 6 of Convention No. 138.

605. Convention No. 182 calls for the adoption of measures for the immediate elimination of the worst forms of child labour. Even before Brazil ratified this Convention, the country had a programme - the Child Labour Eradication Programme (PETI) - whose actions targeted precisely those worst forms.

606. After ratifying Convention No. 182, Brazil created a tripartite commission to draft a list of activities to be considered the worst forms of child labour. That list was used to draft Executive Order No. 20, signed by the Labour Inspection Secretariat on 14 September 2001, defining the activities and places considered to be unhealthy and dangerous for minors younger than 18. (For additional information on this Executive Order, see annex 2.)*

607. The Statute on Children and Adolescents has a special chapter on the rights to professional training and to protected labour, which reiterates the Constitution with regards to limits on child labour and, assures adolescent apprentices both labour and social security rights. In closing, that chapter lays out the basic principles governing labour conditions for adolescents in Brazil:

Article 69. The adolescent has the right to vocational training and protection at work, with due observance of the following aspects, among others:

I - Respect for the specific conditions of the person in development;

II - Vocational training suited to the labour market.

608. Another relevant piece of legislation is the Consolidation of Labour Laws (CLT), most recently amended by Law No. 10,097/2000, which changed several provisions on labour by adolescents, to give them greater protection, as in the definition of the apprenticeship contract:

“Article 428. The apprenticeship contract is the special labour contract, agreed upon in writing and for a fixed period of time, in which the employer promises to assure to the person from 14 to 18 years of age, enlisted in an apprenticeship programme, methodical technical-professional training, compatible with the person’s physical, moral and psychological development, and the apprentice, to diligently execute the tasks required for this training.” (For additional information on the Apprenticeship Law and its regulations, see annex 3.)*

609. Finally, Law No. 8,666/93 forbids public agencies from signing contracts with private parties that exploit child labour, while Law 9,977/98 amended the Penal Code to increase the penalty, when the victim is younger than 18, for the crime of frustration of assured rights, through fraud or violence (art. 203), and for the crime of enticement of workers in order to take them from one part of the country to another (art. 207).

1.4 Public policies

610. The Government of Brazil’s major initiative to fight child labour is the Programme to Eradicate Child Labour (PETI), which is part of the 2000-2003 Multi-Year Plan. It brings together activities by the Labour Inspection Secretariat (SIT) at the Ministry of Labour and Employment, the State Secretariat for Social Assistance (SEAS) and the Ministry of Social Security and Assistance.

611. PETI activities to be carried out by the SEAS are aimed at removing children and adolescents from 7 to 15 years of age from work considered to be dangerous, heavy, unhealthy or degrading. These include: (a) granting of a Child Citizen Scholarship, which is financial aid for families who remove their children from working; (b) the maintenance of a full school day, with socio-educational activities to complement classes by keeping children in a setting where they receive tutoring and can participate in sports and in cultural, artistic and leisure activities; (c) the generation of employment for families in order to make a major effort to promote the family’s financial emancipation; and (d) the organization of educational campaigns to sensitize society in the fight against child labour (additional information on the PETI programme in annex 4).*

612. PETI began in 1996, when it reached 1,500 children working in charcoal ovens and in the *erva-mate* harvest in 14 municipalities of the State of Mato Grosso do Sul. The programme can thus be considered as a pioneer strategy in the fight against the worst forms of child labour. In recent years, the programme’s scope has expanded constantly and can now be identified as one of the most important initiatives contributing to the reduction of child labour in Brazil. Here are some figures.

Table 24
Yearly evolution of the PETI programme

Year	Number of municipalities reached	Number of children and adolescents affected
1996	17	3 710
1997	48	37 025
1998	140	117 200
1999	230	145 564
2000	976	394 969
2001	2 152	749 000
2002 (goal)	-	866 000

613. With regards to the generation of employment for families, PETI signed a partnership agreement with the National Programme to General Employment and Income (PRONAGER) to expand the coverage of this activity, basically aimed at training unemployed and underemployed persons to be able to overcome adversities and have a chance for a new social and economic integration.

614. At the Ministry of Labour and Employment, the Programme to Eradicate Child Labour includes six activities aimed at children and adolescents in any age group: (a) inspection of child labour and regularization of the situation of adolescent workers; (b) promotion of events to sensitize society to child labour situations; (c) publication and distribution of printed material on child labour; (d) a campaign to sensitize society focused on child labour; (e) studies and research on child labour; and (f) mapping of locations with prevalence of child and adolescent labour.

615. Inspections are done by the Special Groups to Fight Child Labour and Protect Adolescent Workers (GECTIPAs), created within each Regional Labour Office (DRT) throughout the country, by Executive Order No. 07, published by the Labour Inspection Secretariat on 23 March 2000.

616. The exclusive purpose of the GECTIPAs is to eradicate child labour and assure the rights of adolescent workers. Following the creation of the GECTIPAs, actions were intensified in the informal sector of the economy, with the collaboration of the entire team of 3,200 labour inspectors-auditors who work for the ministry around the country (additional information on the GECTIPAs in annex 5).*

617. The GECTIPAs are part of the network for the integral protection of children and adolescents, and they carry out a variety of activities in partnership with the Office of the Attorney-General for Labour, state social-assistance departments, guardianship and rights councils, state forums and other key players whose participation is important for inspections to achieve significant results.

618. The Ministry of Labour and Employment is also responsible for drafting, producing and publishing the “map of indicators on child and adolescent labour”, made up of three interlinked modules in a single volume. Module I presents the activities and locations where the existence

of child or adolescent labour was found, in addition to presenting detailed information based on a reprocessing of 1999 PNAD data. Module II describes the working conditions to which those children and adolescents are exposed in the activities listed in the first module. Finally, Module III presents an overview that relates working conditions to possible repercussions on the health of children and adolescents (additional information on the map of indicators on child and adolescent labour in annex 6).*

619. The map of indicators is the major reference work for people who need more precise, detailed information on child and adolescent labour in Brazil. It also gives visibility to the actions of the Ministry of Labour and Employment in the prevention of irregular child and adolescent labour.

620. The recently created National Commission on the Eradication of Child Labour (CONAETI), made up of representatives of the Government, workers, employers and civil society, is responsible for: drafting proposals to regulate ILO Conventions No. 138 and No. 182, for checking compliance of other laws with those conventions, in order to propose changes that may be necessary; drafting a proposal for a National Plan to Fight Child Labour; proposing mechanisms to monitor the application of Convention No. 182; and accompanying the implementation of measures taken to apply the provisions of Conventions No. 138 and No. 182 in Brazil (additional information on the creation of the CONAETI in annex 7).*

621. The Ministry of Labour and Employment, through its Labour Inspection Office, is also responsible for notifying companies to assure they obey the quotas for apprenticeships. Apprenticeships are carried out through contracts that assure technical and professional training for adolescents from 14 to 18 years old. It is a legal obligation of companies, which must contract a quota of apprentices - between 5 and 15 per cent of their employees. The apprenticeship is a programme designed especially for the training of adolescents, consisting of theoretical and practical activities, while requiring that the adolescents remain in school at least through primary education (eight years). The Labour Inspection Office, in addition to notifying companies, is also responsible for auditing the quotas and for enforcing clauses in the special apprenticeship contracts, particularly those that assure legally-binding labour and social security rights for adolescents (additional information on apprenticeship legislation in annex 3).*

622. Also targeting the prevention of child labour is the Federal School Scholarship Programme, which helps keep poor families from having to take their 6 to 15-year-olds out of school and putting them to work. This benefit is paid directly to the family and is entirely conditioned upon the child's school attendance remaining above 85 per cent for each trimester. In the year 2001, this programme was implemented in 5,470 municipalities, reaching 4.8 million families and 8.3 million children. The goal for the year 2002 is to reach 11 million children and adolescents from 6 to 15 years of age, meaning that one in every three children currently enrolled in primary education will be covered.

1.5 Social actors

623. In addition to the Ministry of Labour and Employment and the State Secretariat for Social Assistance, we should also highlight several other major social actors directly involved with the prevention of and fight against child labour in Brazil.

The Office of the Attorney-General for Labour (MPT)

624. Under the provisions of the Constitution and legislation forbidding child and adolescent labour for minors of 16, the MPT has made constant efforts to enforce the law. It has been particularly active in negotiating and obtaining the signature of “behaviour adjustment agreements” involving employers in urban and rural areas. These agreements’ purpose is to assure the immediate removal of children from labour situations, particularly where the worst forms of child labour are involved.

625. The MPT also has a seat on the National and Regional Forums for the Eradication of Child Labour, thus allowing it to know the community projects being implemented and to assess the legality of situations arising there. It holds public hearings, lectures and seminars aimed at sensitizing partners, lawyers and society in general to the problem of child labour.

626. Another important initiative has been the creation of the National Coordinating Office to Fight the Exploitation of Child and Adolescent Labour, with the presence of prosecuting attorneys assigned to deal with the issue in all states of the country (additional information on the MPT in annex 8).*

The National Forum for the Prevention and Eradication of Child Labour

627. Created in 1994 and made up of representatives from several sectors including the Government, employers, workers, the Office of the Attorney-General and civil society, this forum plays an important role for national coordination. It seeks to ratify the commitment of its members to draft policies and to implement increasingly consistent actions to provide final solutions to assure the eradication of any and all forms of illegal exploitation of child and adolescent labour. The National Forum was also important as a paradigm for the creation of equally pluralistic forums in each of Brazil’s 27 states (additional information on the National Forum for the Prevention and Eradication of Child Labour in annex 9).*

National Council on the Rights of Children and Adolescents (CONANDA)

628. Created in 1991 and made up of equal representations of the federal Government and non-governmental organizations, CONANDA’s responsibilities in the field of child labour include studying the working conditions of children and adolescents in the locations and economic sectors with the greatest incidence of child and juvenile labour; stimulating programmes to generate family income in locations with a prevalence of children and adolescents in forbidden activities; seeking by various means to involve the population in fighting child labour and the exploitation of adolescent labour.

United Nations Children’s Fund, UNICEF

629. In addition to having a seat on the National Forum for the Prevention and Eradication of Child Labour, UNICEF is active in Brazil in other collegiate bodies and in working groups aimed at preventing and fighting child labour. It provides incentives and financial support for projects to serve children and adolescents, education and professional training, as well as others that have direct impacts on improving living conditions and expanding the horizons of Brazilian youth, while reducing chances that many of them will be recruited by exploiters of child labour.

International Labour Organization

630. ILO's International Programme on the Elimination of Child Labour (IPEC) helped build a network to fight child labour in Brazil. Since the signing of a Memorandum of Understanding in 1992, ILO/IPEC has played a key role in building policies to prevent and to eradicate child labour. Up to 2002, according to the National Direction Committee of IPEC, more than 105 initiatives were funded in Brazil (action programmes and mini-programmes), with the organization of seminars and debates, the publication of reference documents, training of governmental agents, the organization of employers and employees, NGOs and pioneer actions to attend directly working children and their families.

631. IPEC began its work in the country with the Ministry of Labour and Employment by identifying and locating governmental and non-governmental agencies, institutions and organizations capable of participating on a national scale in the implementation of IPEC action programmes. That research fed into and supported the creation of the National Forum for the Prevention and Eradication of Child Labour. Over these 10 years of activities, publications were produced for social awareness-building (research, books and videos), to train labour leaders, directors, multipliers, auditors, board members and implementers of programmes to assure adequate management and implementation of international conventions in Brazil, and to introduce new issues on to national agendas. ILO/IPEC has also been a partner in developing tools for the qualified collection and production of statistical data on child labour, as part of the SIMPOC project, which will lead to the preparation of a specific module on child labour as part of the official National Household Sample Survey (PNAD).

ABRINQ Foundation for the Rights of Children and Adolescents

632. Created by business leaders in the Brazilian Association of Toy Manufacturers (ABRINQ), this is one of the key non-governmental organizations involved in the prevention and fight against child labour. Its biggest initiative has been the Company Friend of the Child Project, materialized through the distribution of a seal - the Company Friend of the Child Seal - to companies who sign a written commitment to not use child labour. The seal can be used as corporate marketing for the companies, identifying them as profit-making companies with social responsibility.

The National Garbage and Citizenship Forum

633. Created in 1998, with 19 governmental and non-governmental organizations, in 1999 the Forum launched a national campaign to eradicate child labour in garbage dumps, aimed at removing 45,000 children from degrading work in landfills. Its overriding objectives are to put children in schools and in complementary activities; to create social and economic activities for garbage-pickers, particularly through selective collection programmes; to eradicate landfills and to recover areas degraded by garbage.

634. By the end of 2002, the estimate was that PETI would reach over 45,000 children working in landfills. Nonetheless, the eradication of this kind of labour depends basically on putting an end to the landfills themselves. To that end, there has actually been an increase in the funding of federal solid-waste programmes, as approximately 150 municipalities were funded in 2000, and another 400 in 2001.

635. This national initiative has had tremendous support from states and municipalities. Nineteen state forums have been created and another seven are being organized. Many municipalities have also begun to organize their local forums, which is actually a requirement for entering the funding mechanisms offered by the Ministry of the Environment (additional information on the Garbage and Citizenship Forum in annex 10).*

1.6 Domestic child labour

636. On account of a constitutional ban on access to households without a judicial order, domestic child and adolescent labour is very difficult to document and quantify, characterize, audit and punish. It requires alternative measures to make denunciations and investigation possible. Due to these problems, it has been classified by the ILO as one of the “invisible” forms of child labour.

637. Domestic child labour can be classified in accordance with the de facto situation in which a child or adolescent is found in the respective workplace: (a) the child or adolescent is working in a third party’s residence, whether they live there or not; (b) the child or adolescent works in their own residence; (c) the child or adolescent resides and works in the home of others, who have their custody. Each of these situations deserves specific treatment, since the legal implications are different, along with the obstacles to dealing with each situation.

638. Even so, Brazil has given special attention to the issue through the organization of studies, research, many seminars, the organization of a specific working group in the Ministry of Labour and Employment, called the Study Group on Domestic Child Labour (GETID), in addition to the creation of a Special Commission on Domestic Child Labour (CETID), within the State Secretariat for Social Assistance, part of the Ministry of Social Security and Social Assistance.

639. CETID presented an action proposal aimed at eradicating domestic child labour, covering five basic guidelines for strategic actions to be carried out by governmental and non-governmental organizations involved in preventing and fighting domestic child labour: (a) the generation, management and dissemination of high-quality information; (b) the review of relevant legislation; (c) awareness-building and sensitization of society about the means available to fight it; (d) emphasis on domestic child labour in the system for the integral protection of children; and (e) the promotion and the human, social and economic strengthening of families. These proposed guidelines, now being presented and discussed with society, express the drive of institutions to act more directly and significantly in a segment where, in Brazil, children, youth and adults work at alarmingly high rates of informal employment.

640. GETID, meanwhile, is doing studies and preparing proposals to fill normative gaps in the law on domestic labour for children and adolescents, in order to make it possible for authorities to act in irregular situations in order to safeguard the rights of these children and adolescents.

641. PETI will be expanded to cover as well those families which remove their children from domestic-labour situations and enrol them in schools. The initial proposal is to benefit 230,000 children during the first year of implementation of this strategy.

2. The undue use of drugs (legal and illegal)

642. A time-series survey done by the Brazilian Centre for Information on Psychotropic Drugs (CEBRID) and entitled “Survey on the use of drugs by primary and secondary school in 10 Brazilian capitals” concluded that the use of psychotropic drugs by students at public schools has increased significantly since the study began in 1987, based on subsequent evaluations done in 1989, 1993 and 1997.

643. The results on the use of tobacco show that there is greater use of cigarettes by students from 10 to 18 years of age. The greatest increases were in Curitiba and Porto Alegre, capital cities in southern states, where the share of use of tobacco at some point in one’s life increase from 20 per cent in the first survey to 40 per cent in the last survey, in 1997. The first use came most frequently in the 13-15 year age group. In addition, there is evidence of a growing tendency for female students to try smoking.

644. There are indicators of a reduction of experimentation and initiation following the intensification of measures to control tobacco use by the Government in the past six years. No study, however, has been completed yet.

645. The CEBRID studies also show a high level of consumption of alcoholic beverages by students from 10 to 18 years of age, with the share of students who have tried some alcoholic beverage above 65 per cent in all years studied. In 1997, the study found that 51 per cent of students from 10 to 12 years old had made some use of alcohol and that 30 per cent had gotten drunk on alcoholic beverages, with the family setting identified as the most frequent place of initiation.

646. As for other drugs consumed, the leaders are solvents, marijuana, anxiolytics, amphetamines and cocaine. Comparing the increase in consumption of these substances by students over the period of the four surveys, in the category “ever used”, there was an increase in the use of marijuana, amphetamines and cocaine.

647. Among the countless kinds of damage caused by drugs (whether legal or illegal) among adolescents, there has been particular research done in Brazil on the relationship with greater vulnerability to infection by HIV. In order to orient public policies and actions to prevent and control the AIDS epidemic among Brazilian youth, a survey was done in 1999 with military service recruits on the use of legal and illegal drugs and their possible associations with risky sexual behaviour, involving sexually transmittable infections. The study collected observations from 29,373 persons.

648. The results were that only 22 per cent of the recruits had never tried alcoholic beverages. With regards to illegal drugs, 20 per cent of the young men reported they had tried marijuana, and 5 per cent made regular use of marijuana. Of the various possible modes of using cocaine, the most common was inhalation, with 7.2 per cent answering that they had tried the drug in this manner, while regular use was only reported by 1.5 per cent of the participants. These percentages dropped to 4 and 1.1 per cent when the question was on crack, and to 1.9 and 0.7 per cent, respectively, for injected cocaine. As for the age at which the young person first took the drug, there was not much variation in the average answers for each kind of drug. Overall, adolescents first try drugs at around the age of 15.

649. The relationship between using drugs and having unprotected sex deserves particular attention in this population. In addition to having a higher number of partners (particularly paying male and female partners) and a greater frequency of unprotected (no condom) sexual relations, the youth who reported making use of certain drugs (particularly cocaine) also began their sex lives at a younger age, meaning a greater time of exposure to risky sexual behaviour. These effects, meanwhile, are more present among participants with less schooling, as if those having less formal education also had fewer psychosocial resources to deal with the immoderate consumption of psycho-active substances. In the context of social interaction networks, it is known that the composition and dynamics of these networks is influenced by issues related to poverty and to social exclusion, including sexual violence, prostitution, drug traffic and the adoption of more risky life styles.

650. To fight this problem, the Government of Brazil set up the National Anti-Drug Secretariat, directly tied to the President's Office. It combines its preventive policies, through educational campaigns, with a policy of repression against drug traffic. Educational campaigns are taken to schools, community centres and the media, targeting young people above all. There are also major efforts to recover drug consumers, by specialized centres and non-governmental organizations.

3. Sexual exploitation and abuse

651. Article 227, paragraph 4, of Brazil's Constitution provides that the law shall severely punish abuse, violence and sexual exploitation of children and adolescents. At the same time, in terms of violence in the home, the eighth paragraph of article 226 says that the State shall ensure assistance to the family in the person of each of its members, creating mechanisms to suppress violence within the family.

652. In accordance with this constitutional principle, the Statute on the Child and Adolescent, in its articles 240, 241 and 244-A, qualifies as crimes the acts of: producing or directing theatre or television plays or cinema films which utilize a child or adolescent in scenes of explicit or pornographic sex; photographing or publishing scenes of explicit or pornographic sex involving a child or adolescent; or submitting a child or adolescent to prostitution or to sexual exploitation. According to article 244-A, added by Law No. 9,975 (23 June 2000), this crime is also practised by the proprietor, manager or person responsible for the place where the child or adolescent has been submitted to prostitution or to sexual exploitation, with convictions necessarily to include the revoking of such establishments' location and operational licenses.

653. The abuse and sexual exploitation of children and adolescents are complex phenomena, difficult to confront and part of an historical-social context of endemic violence, with deep cultural roots. Only during this past decade did children come to be considered legal rights-bearers, and no longer the incapable object of guardianship, minors with obligations to obey and submit. The break with outdated mores and the building of a new culture of protection and of respect for human rights require the denunciation and restraining of abuses in the construction of relationships and in the learning of exchanges of affection, as well as protection for vulnerable individuals and for witnesses and the need to hold aggressors accountable for their acts.

654. Sexual violence against children and adolescents in Brazil had its political expression during the 1990s, when the phenomenon as a result of social, gender, race and ethnic inequalities, was included on civil society's agenda as an issue related to the national and international struggle for the human rights of children and of adolescents, as provided by the Brazilian Constitution, by the Statute on Children and Adolescents (Law 8,069/90) and in the Convention on the Rights of the Child. That period of time was marked by a strong process of outreach, mobilization and consolidated experiences that strengthened society, enabling it to take on denunciations as a form of confronting sexual violence, thus creating a milestone in the struggle for the rights of children and of adolescents.

655. In 1993, the Chamber of Deputies (the lower house of the National Congress) held a parliamentary inquiry on the prostitution of children and adolescents in Brazil. In the 11 years since that inquiry, sexual violence against children and adolescents in Brazil has been more intensively confronted by civil society and the media, in the Government, legislatures and international agencies. The phenomenon has thus gained greater visibility, been confirmed by more studies, mappings, campaigns and databanks. The press has given better coverage of its occurrence, with a focus on the rights of those involved.

656. This movement led to the appearance of service programmes, investments in the training of social agents, specialized actions by the police in the protection of children and adolescents and the production of specific legislation. Chronologically, the federal Government began the first specific programme to care for sexually victimized children and adolescents, through the Child Citizen of Brazil programme and, in the State of Amazonas, through the Cunhantã and Curumim Project.

657. Many social agents faced the challenge of assuring greater efficiency, effectiveness and impact for the programmes created to deal with the problem, through the quest for integration and better organization, so that the programmes improve and become complementary, avoiding duplication and overlapping. To promote this integration, in June 2000 the National Plan to Confront Sexual Violence against Children and Adolescents was approved by the CONANDA. That same year, the Government of Brazil included, in its 2000-2003 multi-year plan, the Programme to Fight the Sexual Abuse and Exploitation of Children and Adolescents.

658. As part of these service actions, the Sentinel Programme was established to provide children, adolescents and their relatives involved in situations of sexual violence with expert social services. Today it covers 315 Brazilian municipalities. These municipalities include the state capitals, metropolitan regions, tourist centres, port cities, trade centres, highway junctions, mining areas and border regions. Every month in 2002 the programme took care of over 34,000 people, including children, adolescents and their relatives, thus doubling its initial forecast. In addition to this measure, from 1998 to 2002 several public campaigns were carried out to explain sexual violence against children and adolescents. Noteworthy initiatives in this context include the campaigns carried out together with the Brazilian Tourism Institute (Embratur) against "sexual tourism" and the creation of a telephone hotline for the nationwide registration of denunciations. Both of these actions were also supported by the Brazilian Children's and Adolescents' Support Association (ABRAPIA).

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660. Other actions by the Government of Brazil include ratification of Convention No. 182 of the International Labour Organization, whose guidelines classify prostitution as one of the worst forms of labour, to which children should not be exposed. Brazil has also played an active role in the World Tourism Organization, where in 2002 Brazil was chosen to be the international manager of the Global Code of Ethics for Tourism, whose experimental model is being implemented in the city of Natal in the State of Rio Grande do Norte. Finally, another important form of international cooperation by Brazil in this area was the signing in 2002 of an agreement between the SEAS, the Ministry of Justice (through its Department of Children and Adolescents) and the United States Agency for Development (USAID), establishing a broad technical and financial partnership aimed at fighting traffic in children and adolescents for the purposes of prostitution. This partnership should also allow for development of benchmark actions in this field, particularly in border regions.

4. Sale, traffic and kidnapping of children

661. There is a difference between traffic for whatever purpose and the kidnapping of children by one of their parents. Regarding the kidnapping of children and adolescents by one of their parents, Brazil has ratified the major relevant conventions: the Inter-American Convention on International Return of Children, adopted in Montevideo on 15 July 1989 and promulgated by Brazil through Decree 1,212 on 3 August 1994; and the Convention on the Civil Aspects of International Child Abduction, concluded in The Hague on 25 October 1980, approved by Legislative Decree 79 on 12 July 1999 and promulgated in Brazil by Decree 3,413 on 14 April 2000.

662. Decree 3,951 issued on 4 October 2001 names the central authority for enforcement of the obligations imposed by the Hague Convention on Civil Aspects above, creates the Council of the Federal Central Administrative Authority against International Kidnapping of Children and establishes the National Programme for Cooperation in the Return of Brazilian Children and Adolescents Kidnapped Internationally.

663. The Central Authority, which represents Brazil in the protection of children and adolescents who have been illegally retained, is the agency responsible for Brazilian policy in this area, and is part of the Ministry of Justice.

664. Domestically, the kidnapping of children and adolescents is a crime covered by Article 9 of Law 8,072, of 25 July 1990, which provides that the penalty for the crime of extortion through kidnapping - set in article 159 of the Penal Code - shall be increased by one half (while maintaining the upper limit of 30 years of reclusion) when the victim is 14 years old or less.

665. Regarding the sale of children and adolescents, the ECA defines as a crime, in articles 238 and 239, the following acts: “To promise or effect the delivery of [issue] or ward to

a third party through payment or reward”; “... offer or effect the payment or reward”; and “Foster or aid in the effecting of an act that has the objective of sending a child or adolescent abroad without observance of the legal formalities or with the purpose of obtaining profit”.

666. Regarding traffic, the Government of Brazil, through the Department of Children and Adolescents, has supported initiatives by civil society. Among them, we would highlight the research project entitled Traffic in Women, Children and Adolescents for the Purposes of Sexual Exploitation in Brazil, currently under way and coordinated by the non-governmental organization Reference Centre for Studies and Actions in Favor of Children and Adolescents (CECRIA), in partnership with other organizations. The results of the study have provided data and information on traffic in women, children and adolescents, which are being used by the National Secretariat for Human Rights as indicators for developing a policy agenda that can be useful to the federal Government, civil society and international cooperation.

667. This policy is expected to pull together resources to strengthen networks that protect children and adolescents and the law enforcement system, in addition to allowing for agreements with neighbouring countries aimed at mutual collaboration against such traffic.

5. Other forms of exploitation: recruitment of children and adolescents by drug trafficking

668. The issue of child labour in drug trafficking deserves special attention, as it is a morally condemnable form of labour that involves great risk for the safety of children and adolescents. For that reason, it was included amongst the worst forms of child labour by ILO Convention No. 182, to which Brazil is a party.

669. The Federal Police is responsible for enforcement of drug traffic legislation. When identified as involved, children are sent to the Public Prosecutor's Office (Public Ministry) which proposes, as appropriate, actions provided by the Statute of the Child and Adolescent (ECA) in the specialized courts for children and youth, which can impose social and educational measures aimed at their recovery.

670. In the arena of preventive activities, the National Anti-Drug Secretariat (SENAD), part of the Institutional Security Office in the Presidency, is to be highlighted. SENAD works under guidelines from the National Anti-Drug Policy to act in the areas of prevention, treatment, recovery and social reinsertion. It holds training courses focused on the basic principles of drug-use prevention for a target audience of educators from around the country. This is a strategic initiative, considering that much research points to the likelihood of illegal drug consumption taking place during childhood and adolescence.

D. Children belonging to minorities or to indigenous groups

1. Policies for indigenous peoples

671. Public policies on the rights of indigenous children and adolescents, in addition to the guarantees provided by article 227 of the 1988 Constitution and the ECA, also consider the guarantees for indigenous populations based on the full recognition, respect and exercise of their

cultures including all aspects, such as religion, lifestyles, political organization, diversity, etc. Given the importance of each people's traditions and cultural values for the protection and harmonious development of children, those guarantees are held to be related to the possibility of maintaining their own way of life. This in turn is intimately linked to the guarantee of use of the lands traditionally occupied by indigenous peoples.

672. The Constitution of the Federal Republic of Brazil, promulgated in 1988, in its chapter VIII of Title VIII, "The Indians", guarantees that "Indians shall have their social organization, customs, languages, creeds and traditions recognized, as well as their original rights to the lands they traditionally occupy" (art. 231), and in article 215 gives the State the duty to protect indigenous cultural manifestations. These precepts are the doctrinarian basis for a variety of actions aimed at indigenous populations, under the responsibility of the Brazilian State. This clearly reveals how Brazil is understood to be a multi-ethnic nation that values the differentiated cultural identity of the indigenous peoples in terms of the setting of public policies, particularly indigenous-oriented policies.

673. The determination that indigenous communities are culturally and politically legitimate is definitively set out by the Constitution when it states that: "The Indians, their communities and organizations have standing under the law to sue to defend their rights and interests" (art. 232).

674. As one aspect still outstanding in indigenous-related policy over the past decade, we must mention the delay in the legislative updating of the main legal instrument that regulates indigenous rights, the Indian Statute. Promulgated in 1973 as Law No. 6,001, the statute presents provisions based on the ILO Indigenous and Tribal Populations Convention No. 107 (1957) that make it the duty of the State to promote the harmonious integration of indigenous people into national culture. That kind of integration, repudiated by the new 1988 Constitution, is no longer the objective of the State, which now seeks to guarantee respect for differentiated cultures. The updating of the legislation depends on the National Congress, which has been debating Bill No. 2,057/91, aimed at modernizing the Indian Statute and adapting it to the country's new constitutional precepts.

675. Meanwhile, through Legislative Decree 143/02, Brazil has ratified the ILO Indigenous and Tribal Peoples Convention No. 169 (1989). Through the newly revised Brazilian Civil Code, approved by Law 10,406/02, indigenous people are also no longer considered incapable citizens, and thus are no longer expressly dealt with by the Code as wards of the State.

676. Under this new legal framework, Brazil's territory is home to a range of approximately 215 indigenous peoples, speaking 180 languages and countless dialects, spread throughout all the country's geographical regions. There is a total of 374,000 indigenous people, accounting for 0.2 per cent of the Brazilian population, 50 per cent of whom are over 18 years old.

677. This population is distributed in 589 indigenous territories, covering 11.96 per cent of the country's land mass (in fact, 21 per cent of the Legal Amazon region of Brazil is covered by indigenous land). They receive social, legal and law-enforcement support from the National Indian Foundation (FUNAI). Created by Law 5,371/67, FUNAI is the "indigenist" agency responsible first of all for "establishing guidelines to assure the implementation of indigenist

policies,” based on “respect for the indigenous persons and for tribal institutions and communities” and on the guarantee of permanent possession of the lands they inhabit and the exclusive use of the natural resources and all the units that exist on them” (art. 1, Ia and Ib).

678. Land is at the core of indigenous issues, since the notion of territory in indigenous societies implies much more than considering it as a mere means for livelihood. Land is the basis for social life and is directly linked to the belief and knowledge system. The concept of territory is linked to the group’s cultural history, its mythological universe, family relations and all the social interactions and the system of political and economic alliances among the villages of a given group. Territory sustains each group’s web of cultural life. The guarantee of land is thus an essential condition for assuring the survival of Indians as ethnically differentiated groups within the national society. The lands traditionally occupied by Indians are intended for their permanent possession, with exclusive rights to usufruct; they are inalienable, and the rights thereto are not subject to limitation.

679. Under those constitutional precepts, the territorial issue has been a priority. In the past seven years, the country demarcated and legalized the largest amount of indigenous land in its entire history - 102,227,930 hectares, larger than France and England combined. This total does not include the areas of 131 indigenous territories that are still being identified, nor the areas closed for the protection of 45 known groups of isolated indigenous peoples. In the case of these latter groups, the Government of Brazil chose the policy of ensuring their cultural integrity and health by controlling the territories they use through the blocking of the expansion of lumber, cattle and mining activities into these regions.

680. Still in the realm of protection of rights, we can discuss how the category of “Indian” is conceived in today’s Statute of the Indian (Law 6,001/73). The conception of a generic category - Indians - has not allowed them to be seen as distinct ethnic groups composed of different segments, such as children/adolescents and women/men. Therefore governmental actions have so far targeted indigenous societies as a whole, rather than specific segments of these societies. Even so, the demands have always existed, along with the fact that the institutional paradigm was not capable of perceiving specificities, a situation which merely highlights the need to establish appropriate public policies.

681. Observation of the reality of indigenous communities suggests that villages located near cities, hydroelectric dams, waterways, small mines, lumber operations, highways and power lines, for example, are subject to constant, long-term threats that interfere in the development of children and adolescents living in these areas, through problems such as malnutrition, diseases like diarrhoea and pneumonia, etc. These situations have also intensified the migration of indigenous families into cities, causing greater contact with regional society and generating other problems such as alcoholism, prostitution, undesired pregnancies, drug use, contagion by sexually-transmittable diseases like AIDS, cases of sexual violence, recruitment by invaders, the aggravation of discrimination and prejudices and the involvement of indigenous persons in small and major crimes.

682. In addition to those external threats, migration out of villages tends to tear apart families, as they face such difficulties as having to deal with the adolescence of their children. Youth in direct contact with non-indigenous adolescents often choose to deny their indigenous identities as a strategy to minimize the discrimination they frequently suffer. In addition, youth and

children also suffer the negative impacts of living with alcoholic parents, which can mean exposure to physical and psychological violence inside their own homes, mainly as a result of their communities' precarious social and economic living conditions. In the schools where they are enrolled, these youths also confront the inability of teachers to take on their education, since very few have received any training to deal with such specific realities.

683. Two points - education and health - are held up by the Government of Brazil as absolute priorities and thus are the focus of specific actions by public authorities. They have direct impacts on the living conditions of indigenous children and adolescents, considering how essential they are to assure their citizenship and quality of life, specifically the policy for indigenous school education and the National Policy for Indigenous Peoples' Health Care.

2. Indigenous education

684. The general principles of indigenous school education are rooted in the multi-ethnicity, plurality and cultural and linguistic diversity of Brazil's indigenous societies. The respect for differences is assured in Brazil's 1988 Constitution, while the Law on Educational Directives and Bases (LDB) assures indigenous peoples the right to formal schooling. It is in this context that indigenous school education takes place, guaranteeing communities' access to the right to use their mother tongues and their own learning processes, based on respect for each people's culture and specificities, while also providing for exchanges amongst the diverse communities.

685. To achieve these principles and objectives, and to put into practice a national indigenous school education programme, the Ministry of Education has defined actions and programmes that are decentralized in order to respect the indigenous peoples' processes of struggles and conquests and to stimulate demands for intercultural and bilingual education. Support is provided for projects arising from demands by indigenous communities, through governmental or non-governmental sectors. Analytical criteria have been established for approving funding proposals, as well as for monitoring and assessment of projects, aimed at: investing in the initial and ongoing training of indigenous education professionals; stimulating the production and publication of teaching material in indigenous languages; and dissemination to the entire society of the country's ethnic, linguistic and cultural diversity.

686. More specifically, the Ministry of Education's activities to train professors have focused on:

- The Capacity-building Programme in Indigenous School Education for Governmental Technicians, aimed at giving sound orientation for technicians to be able to administer their own training in their respective areas of activity, keeping up with the progress of theoretical and methodological discussions in the field of differentiated education; and
- The Parameters for Action in Indigenous School Education, an initial and ongoing training programme for indigenous teachers, involving a set of activities designed for training educators: teachers, technical teams and school directors. The key purpose is to develop four basic technical skills: reading and writing; shared work; self-administration of one's own education; and reflections on teaching practices.

687. The Ministry also undertakes initiatives in the dissemination of indigenous issues to the national society, in order to fight discrimination and prejudices against indigenous societies and to promote the value of the country's social and cultural diversity.

688. In 1998, national curricular references were published for indigenous education. In addition to conventional fields of knowledge, they covered issues such as self-sustainability, indigenous ethics, cultural plurality, rights, struggles and movements, land and the preservation of biodiversity and preventive education for health. The theme of cultural plurality refers to the ethnic and cultural traits of different social groups that coexist in Brazil, social and economic inequities and prevailing discriminatory social relations, thus offering students the chance to know Brazil as a complex and multifaceted country.

689. In 1999, INEP did a special survey on the situation of indigenous education in Brazil. Important findings included the share of indigenous teachers - 76.5 per cent of the total - enhancing the identity of indigenous schooling in Brazil. More recent data in the 2001 school census reveals the evolution of this area of teaching, with a total enrolment in primary schools of 95,377.

Table 25

**Number of indigenous schools, teachers, indigenous teachers
and enrolment, Brazil and geographical regions, 1999**

Countrywide and regions	Indigenous	Teachers		Enrolment	
		Total	Indigenous Teachers	Total	Indians
Brazil	1 392	3 998	3 059	93 037	90 459
North	786	2 070	1 712	47 232	46 745
North-east	283	713	557	20 141	19 319
South-east	24	103	83	2 755	2 753
South	89	405	187	6 336	5 901
Central West	210	707	520	16 573	15 741

Source: *Censo Escolar Indígena*. MEC/INEP/SEEC.

3. Indigenous health

690. The objective of health care for indigenous peoples is to provide them with integral access to health in accordance with the principles and guidelines of the Single Health System (SUS), in addition to considering these peoples' social, cultural, historical, geographic and political diversity. The goal here is to overcome factors that have made this population more vulnerable to the health problems facing Brazilians in general, recognizing the efficacy of traditional indigenous medicine and these peoples' right to live in accordance with the principles and values of their own cultures.

691. It is difficult to characterize the health profile of Brazil's indigenous population as a whole, not only due to the complexity of its diverse social, cultural, environmental and epidemiological contexts, but also until very recently due to the difficulty in obtaining data from scientific literature or from national health and demographic systems.

692. As part of the cultural, economic and environmental changes that occur in the interaction with national society, indigenous children are part of a context of large families, precarious housing and sanitation, low formal schooling and poor coverage and quality of irregular health services.

693. Diarrhoea stands out as the main cause of illness and deaths of indigenous children, followed by pneumonia, with these two diseases accounting for 60 to 80 per cent of admissions, according to reports. Acute diarrhoea, a major cause of death, affects mainly children younger than 5 years of age, revealing above all disturbances in environmental and personal hygiene, as well as changes caused by contact with the various fronts of expansion of the surrounding society.

694. Malaria may account for over half of children's clinical visits and hospital admissions in endemic regions.⁵⁷ Despite widely available BCG vaccines, tuberculosis is still a major endemic disease amongst the country's indigenous population, particularly for the children of certain ethnic groups.⁵⁸

695. Studies on nutrition among indigenous peoples in the 1980s and 1990s, focused on indigenous children from different ethnic groups in the Central West and the Amazon regions, detected high levels of energy and protein malnutrition, as well as anaemia.⁵⁹ The decrease in the diversity of food as a result of social, cultural and economic transformations and contact with national society, including the disorganization of food production, was observed in several groups, along with the disappearance of farmable land and of other natural resources (hunting, fishing) that are fundamental for sustainable food security. This situation is even more serious in areas where there are conflicts with invaders, and among urbanized indigenous groups.

696. Today we observe some indigenous peoples acquiring an epidemiological profile characterized by chronic non-contagious diseases, aggravated by external causes and violence. In the case of obesity and diabetes mellitus, we know that they appear among adults due to childhood eating habits and patterns of physical activity. Amongst the Xavante people, for example, above-normal weight is observed from the first decade of life.

697. Partly due to changing food habits, including the consumption of refined sugar and other industrialized products, we observe a significant prevalence of cavities among indigenous children, with a tendency to increase in the share of teeth with cavities or that fall out.⁶⁰

698. In several ethnic groups, suicide and alcoholism⁶¹ are major health issues for youth and adolescents. Amongst the Tikunas, for example, of a total of 55 recorded suicides from 1990 to 1997, 56.3 per cent of them involved youth between 12 to 18 years old. Amongst the Kaiowás, most suicides are also observed in this age group.

699. Despite all these challenges and the complexities involved in dealing with them, indigenous children have been the main beneficiaries of actions and services provided since 1999, when a health system aimed at the specific needs of indigenous peoples was implemented.

700. In response to the guidelines of the First and Second National Conferences on the health of indigenous peoples, held in 1986 and in 1993, the Government of Brazil established a new policy for this sector, including the legal and administrative initiatives of approving new legislation and standards to guarantee their sustainability.⁶²

701. Thus, under the guidelines of the Second National Conference on Indigenous Peoples' Health, the system created by the new policy is based on Special Indigenous Sanitary Districts (DSEIs), conceived as spaces for health care under the responsibility of the Federal Health Manager, covering a specific geographical area and considering demographic and ethno-cultural aspects, to facilitate access of indigenous clients to services at the three levels of complexity. The 34 DSEIs are now fully operational as an installed network of structured services in the interior to resolve a range of problems through basic health care inside the indigenous territories, including conditions for reference and counter-reference for medium- and high-complexity care, within the Single Health System.

702. A specific health surveillance information system was created to organize these services, the Indigenous Health Care Information System (SIASI), which is now in the process of implementation. It will allow for the online monitoring of the health situation and evolution of each individual, identified by community, family, age group, ethnic group and also allowing for the generation of general demographic and epidemiological data. SIASI reports will be used to determine priority actions and resource allocation and distribution, also facilitating the participation of indigenous communities in planning and evaluating these actions.

703. The responsible health authority in each DSEI is a representative of the Federal Administrator. To operationalize the districts' actions, there is a physical network of health clinics and support houses, equipped with communication and transportation facilities, in addition to multidisciplinary teams made up of doctors, nurses, dentists, nurses' aids and indigenous health agents.

704. To assure that quality health care actually meets the needs expressed by indigenous users, a special programme was launched to train and certify indigenous health agents, who will be the people most responsible for bringing users into the system. To overcome barriers, the official health agency, the National Health Foundation, is giving special emphasis to training human resources for intercultural action and to receive ongoing technical training, based on actual epidemiological needs detected in each DSEI. Over 2,000 indigenous community agents have been trained. The DSEIs also have access to occasional support from other professionals, such as anthropologists, educators, sanitary engineers and others who provide technical and administrative support to the services.

705. Social participation and control by the users, through local councils and district health councils, are fundamental for the operations of the Special Indigenous Sanitary Districts. Throughout the entire process, that participation is given intense support in both its formal and its informal expressions.

706. The formation and operation of these councils has all the institutional support needed to guarantee training courses for council members and budget resources for their meetings. Local councils are entirely composed of indigenous representatives chosen by their own communities. The decision-making District Council includes government representatives, service providers, district health workers and other social agents relevant to the system's operation. As provided by Law 8142/90, there is a parity representation of indigenous users on the District Council, equal to all the other members.

707. The DSEI work programme is established based on needs identified during a strategic planning process. Basic health-care programmes - with a major impact on the health of the below-18 age group covered by the Convention on the Rights of the Child - include immunization, dental health, women's health, children's health, control of contagious and parasitical diseases (especially tuberculosis and malaria), mental health, planning and sanitation (drinking water and final disposal of sewage and garbage).

708. There are already concrete results from these initiatives. The actions and services provided in three years of experience with the DSEIs have had a major impact on the child mortality coefficient, which was estimated at 96.8 deaths per 1,000 live births in 1999, and in 2000 had fallen to 74.6 and then to 56.5 in 2001.

709. The major drop in cases of diarrhoea during this past year reflects the results of health-team efforts and the priority on children's health, along with improvement in the reference mechanism and above all investments in basic sanitation works carried out from 1998 to 2001, providing water supply systems for 614 indigenous communities.

710. To fight undernutrition - a serious barrier to the full development of indigenous children and for the reduction of child mortality, particularly in the critical age group of up to 5 years of age - special strategies were adopted to identify vulnerable groups of pregnant women, nursing mothers and below-5 children, in cooperation with the General Coordination of Food and Nutrition Policy at the Ministry of Health. Amongst the measures already taken is the inclusion of indigenous peoples as beneficiaries of a differentiated programme to promote the nutritional health of pregnant women, nursing mothers and children from 6 months to 7 years of age, including budgets for sustainable activities in the villages, selected with the broad indigenous population.

Notes

¹ In this respect, see Flavia Piovesan and Wilson Ricardo Buquetti Pirota, *Os Direitos Humanos das Crianças e dos Adolescentes no Direito Internacional e no Direito Interno*, in Flavia Piovesan, *Temas de Direitos Humanos*, 2nd edition, São Paulo, ed. Max Limonad, 2002, p. 277-298.

² The funds are composed of different revenues specified by law, which are earmarked for certain objectives or services considered to be priority.

³ The analysis of federal expenditure on children and adolescents is limited to the years 2000 and 2001 due to the methodological alterations which occurred from 2000 onward, in the functional-programme classification of the records containing the budgetary and financial spending of the federal Government, which impedes any direct comparison of disaggregated data from the 1993 to 1999 series with those of the subsequent years.

⁴ Which here also incorporates the areas of citizen's rights and sports and leisure.

⁵ IPEA, Evolution of Labour and Income Indicators, site, www.ipea.gov.br, source IBGE/PNAD 1999/2001.

⁶ Barros, Ricardo Paes; Henriques, Ricardo e Mendonça, Rosane, *A Estabilidade Inaceitável: Desigualdade e Pobreza no Brasil*, Text para discussão N. 800, IPEA, Rio de Janeiro, junho de 2001.

⁷ IPEA, Evolution of Labour and Income Indicators, (www.ipea.gov.br), source IBGE/PNAD 1999/2001.

⁸ Law No. 6.015, 21 December 1973.

⁹ Law 10.169 establishes the form of remuneration for the civil registration (notaries) of persons for acts performed free of charge.

¹⁰ The birth-registration posts are not branches of the notary publics (prohibited by law) as they only carry out birth registrations and are barred from providing other notary services.

¹¹ Institute of Applied Economic Research.

¹² MEDEIROS, M. e R. OSÓRIO. "Mudanças nas Famílias Brasileiras: a composição dos arranjos domiciliares entre 1978 e 1998" Brasília: IPEA, 2002 (Discussion Text No. 886).

¹³ Except for domestic servants, children of domestic servants, aggregated persons and pensioners.

¹⁴ MEDEIROS, M. e R. OSÓRIO. "Mudanças nas Famílias Brasileiras: a composição dos arranjos domiciliares entre 1978 e 1998" Brasília: IPEA, 2002 (Discussion Text No. 886).

¹⁵ MEDEIROS, M. e R. OSÓRIO. "Arranjos Domiciliares e Arranjos Nucleares no Brasil: classificação e evolução de 1977 a 1998". Brasília: IPEA, 2001 (Text for discussion No. 788).

¹⁶ This Convention was signed in The Hague, on 25 October 1980, and came into international force on 1 December 1983 and, in Brazil, on 1 January 2000.

¹⁷ Adopted in the plenary session of the Fourth Inter-American Specialized Conference on Private International Law - IVCIDIP, Montevideo, 15 July 1989.

¹⁸ Waiselfisz, Jacobo, Map of Violence III, UNESCO, Brasilia 2002.

¹⁹ Brazil, Organic Laws of Health: N. 8.080 and N. 8.142, 19 September and 28 December 1990, respectively.

²⁰ Brazil, Organic Laws of Health: N. 8.080 and N. 8.142, 19 September and 28 December 1990, respectively.

²¹ Ministry of Planning, Budget and Management. Four-year plan 1996-1999. Available at www.planejamento.gov.br.

²² Ministry of Planning, Budget and Management. Four-year plan 2000-2003. Available at www.planejamento.gov.br.

²³ Ministry of Health, National Agency of Supplementary Health, ANS. Information available at www.ans.gov.br.

²⁴ IBGE. National Survey. By Domicile Sampling - PNAD, Supplementary Health, 1998.

²⁵ Brazil, Law No. 9.656, 3 June 1998, and Provisional Measure No. 1.665, which forms the legal framework for regulating private health plans.

²⁶ Ministry of Health, National Agency of Supplementary Health, ANS. Information available at www.ans.gov.br.

²⁷ Ministry of Planning, Budget and Management. Four-year plan 2000-2003. Available at www.planejamento.gov.br.

²⁸ Brazilian Center of Health Studies, CEBES, Health Issues for Debate. No. 21. Rio de Janeiro, December 2000.

²⁹ Federal Republic of Brazil, report on meeting the targets set by the World Children's Summit, September 2001.

³⁰ National Health Foundation. Epidemiological Monitoring Guide. Brasilia, 1998.

³¹ Brazil, Infant Mortality Reduction Programme. 1995.

³² Brazil, Law No. 8069, of 13 July 1990, chapter I, art. 10.

³³ Jelliffe, E.P.F. and Jelliffe, D.B., ed. *Programmes to Promote Breastfeeding*, Oxford: Oxford Medical Publ., 1988. pp. 359-365.

³⁴ Data furnished by the Technical Area for Breastfeeding of the Public Policy Secretariat of the Ministry of Health in September 2002.

³⁵ Ministry of Health. Report of Activities of the National Immunization Programme, Brasilia, 2002.

³⁶ Institute for Applied Economic Research, State Secretariat for Human Rights and Ministry of Foreign Relations. Food and nutritional security and the human right to food in Brazil. Brasilia, March 2002.

³⁷ Ministry of Health. Administrative Rule No. 3916, 30 October 1998.

³⁸ Federal Republic of Brazil. Law No. 9787 of 1999.

³⁹ Brazil, Law No. 9313 of 1996.

⁴⁰ Brazil, Law No. 10167 of 27 December of 2000.

⁴¹ See www.pastoraldacrianca.org.br.

⁴² Brazil is a signatory to the agreements of the Conferences on Education for All (EFA) held in Jomtien, 1990, and Dakar, 2000, and became an active participant of the E-9 group, which convenes the nine most populous developing countries in the world.

⁴³ IBGE. National Sampling Survey of Households - PNAD 2001.

⁴⁴ The Projeto Alvorada is a programme of integrated action in the health and education fields, with the goal of reducing poverty and regional inequalities in least developed parts of the country. In 2000 to 2002, it reached 2,317 towns and spent R\$ 13.2 billion.

⁴⁵ Although it is defined as a single cycle, Brazilian primary education is made up of two distinct stages that are clearly identifiable. The first four years are generally designed for students to develop basic competence in terms of language (reading and the production of texts) and mathematics (geometry, measurements, numbers, operations, data presentation), which approaches the definition of “primary education” - *primary* - a classification agreed to within the scope of UNESCO (CINE-97). The final grades (5-8) continue the programmes taught through grade 4, but generally at this stage more specialized teachers are employed and the learning is organized differently, by subject, which approaches the definition of *lower secondary*.

⁴⁶ With respect to total government expenditures devoted to the education of children and adolescents, it is worth noting that the estimated expenditures on primary education vary by study, since current statistical systems are not equipped to supply this data systematically.

A 1996 survey conducted by the Economic Foundation of Campinas (FECAMP) and the Internal Group of Urban and Region Social Economics (NESUR/UNICAMP) revealed that in that year public and secondary education accounted for, respectively, 41.52 per cent and 4.92 per cent of the public expenditures on educational programmes. Another study produced by the Ministry of Education, in 2000, and based on a sample of 307 municipalities, most with 100,000 inhabitants, revealed that of the total amount of resources channelled to education, which was on the order of R\$ 17.8 billion, nearly 34 per cent, or R\$ 6.1 billion, pertained to early childhood education.

⁴⁷ The preliminary results of the education census 2002 were published in the 29 August 2002 edition of the Government newspaper, through Administrative Rule No. 2426, of 28 August 2002.

⁴⁸ COELHO, Ricardo Corrêa. *O FUNDEF e a Nova Orientação das Políticas Educacionais nos Anos 90: Princípios e Resultados*. In *Seminário Internacional de Ciência Política*, da Universidade Federal do Rio Grande do Sul - UFRGS, Porto Alegre, 3 to 5 October 2001.

⁴⁹ Lay teachers are without the minimum required preparation.

⁵⁰ The training of multiplier teachers was carried out through specialized courses and in universities. The training of teachers is performed in the NTEs, decentralized technical and educational support structures that function as true centres of excellence in the preparation of teachers, technical support and the maintenance of hardware and software installed in the schools.

⁵¹ Law No. 10219, of 11 April 2001, established the National School Grant Programme.

⁵² This flexibility in curricula is made possible by virtue of the different levels of professional training adopted in the country, which take into account the diversity of the young and adult workers served or of those who have not yet entered the job market. The education levels that make up professional education are divided into basic, technical and technological:

- *Basic*: This is the type of informal professional education with varying durations, which aims to provide workers with skills that allow them to be re-professionalized, qualified and brought up to date for purposes of performing the functions the working world requires, in a manner consistent with the technological complexity of the work, the degree of the student's technological knowledge and level of education, for which no mandated curriculum is prescribed;
- *Technical*: This type of professional education is aimed at youths and adults that are in, or have completed, secondary school, but whose title presupposes completion of 11 years of basic education;
- *Technological*: This type of professional education is aimed at providing youths and adults with higher education training at both the undergraduate and post-graduate levels.

⁵³ The recent reforms in higher education were permitted by Law No. 9131 of December 1995.

⁵⁴ ENEM is an example of the type of selection process that conforms with the new rules. The exam is open to all candidates, from students enrolled in any secondary education institution in the country to those who have already concluded the secondary level or equivalent, at any time, pursuant to any of the alternatives provided for by law.

⁵⁵ The inclusion of students with special needs in professional education courses is prescribed by Decree No. 2208/97.

⁵⁶ Administrative Rule No. 652, of May 1997.

⁵⁷ R.V. Ianelli (2000) in: *Doenças Endêmicas: Abordagens Sociais, Culturais e Comportamentais*, Rio de Janeiro: Ed. Fiocruz, pp. 355-374; A.C. Linhares (1992) *Cad Saúde Pública* 8:121-128.

⁵⁸ R.G. Baruzzi et al. (2001) *Cad Saúde Pública* 17:407-412; A.L. Escobar et al. (2001) *Cad Saúde Pública* 17:285-298.

⁵⁹ S.A. Gugelmin et al. (2001) *Jornal de Pediatria* 77:17-22; S.J. Martins and R.C. Menezes (1994) *Rev Saúde Pública* 28:1-8; A. Mattos et al. (1999) *J Am Coll Nutr* 18:88-94; D.L. Ribas et al. (2001) *Cad Saúde Pública* 17:323-331; R.V. Santos (1993) *Cad Saúde Pública* 9 (supl. 1):46-57; R.V. Santos and C.E.A. Coimbra Jr. (1991) *Hum Biol* 63:795-820.

⁶⁰ R. Arantes et al. (2001) *Cad Saúde Pública* 17:375-384; J.M. Hirata et al. (1977) *Rev Fac Odontol (S. Paulo)* 15:189-198; C.J. Donnelly (1977) *Comm Dent Oral Epidemiol* 5:30-39; D.L. Rigonato et al. (2001) *Rev Inst Med Trop S Paulo* 43:93-98.

⁶¹ R. Erthal (2001) *Cad Saúde Pública* 17:299-311; A. Morgado (1991) *Cad Saúde Pública* 7:585-598; *Seminário sobre Alcoolismo e DST/Aids entre os Povos Indígenas*, Brasília, Ministério da Saúde (2001).

⁶² The major new legal instruments were: (a) Provisional Measure 1911-8, published 27 August 1999, and re-published as MP. 2216-37 on 31 August 2001, which transferred responsibilities for indigenous health to the Ministry of Health; (b) Law 9836, dated 23 September 1999, which included a specific chapter on indigenous health in Law 8080 (Single Health System) to create the Indigenous Health Care Subsystem; (c) Decree 3156, dated 27 August 1999, and *Portaria* 1163/GM, dated 14 September 1999, on the provision of services and the responsibilities of the Ministry of Health and of the National Health Foundation; (d) the National Policy for Indigenous Peoples' Health Care, approved by *Portaria* 254 on 31 January 2002, which creates the general guidelines for the subsystem.
