REPORT OF CIVIL SOCIETY ON THE
SITUATION OF THE RIGHTS OF THE CHILD AND
THE ADOLESCENT IN BRAZIL

Brazil - 2004
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EXECUTIVE SUMMARY

This report from civil society regarding the implementation of the Convention on the Rights of the Child in Brazil, to be sent to the United Nations’ Committee of the Rights of the Child in Geneva, is an initiative of ANCED – the National Association of Defense Centers for the Rights of the Child and the Adolescent, a non-profit body with its head office in Fortaleza. It is made up of 30 bodies in 14 States of the Federation together with the Permanent National Forum of Non-Governmental Bodies in Defense of the Rights of the Child and the Adolescent - Forum DCA.

The objective of this report is to present the advances and retreats of the situation of the child-adolescent-youth in Brazilian society during the last ten years and, particularly, in the movements in defense of the child and the adolescent. It also intends to draw the attention of the international community to the serious violations of the rights of this group, in a country that has a poor history when it comes to human rights, especially those related to ethnic groups, gender, generations, etc.

In view of the scope of children’s rights, time constraints and the lack of up-to-date national information, this report focuses on four rights. This report is divided into two parts. The first intends to approach four rights from an analytical point of view: 1. The right to participation, focusing on administration; 2. The right to survival, through health issues, especially malnutrition; 3. The right to development, a discussion about education starting from the right to quality fundamental education; and 4. The right to protection, a study about adolescents in conflict with the law (access to justice/ guarantee of the obligatory legal process in the application and execution of socio-educative measures) and a presentation of the problem of murders of young people in Brazil. The second part is children and adolescent’s views regarding their rights.

Producing this report was a big challenge to ANCED, to tackle the analysis of the situation of human rights of the child and adolescent. “After all, it is not enough that Brazil, since its (re)democratization, is ratifying international instruments of protection of the human rights; it is fundamental that the country establishes clear and efficient measures to overcome the problems related to human rights”.¹

Brazil, the fifth largest country in the world, a major global economic potency, continues to be an unjust country, where inequality rules. Just take a look at the statistics that shock us year after year: While the richest 20% of the population receive 63,8% of the

national income, the poorest 20% receive only 2.5% of the total. The study “Social Politics: follow up and analysis (2000), from the Institute of Applied Economic Research - IPEA shows that 57 million Brazilians (35% of the population) live in a state of poverty, that is, their monthly per capita family income is less than half a minimum salary (50 USD). 15% of the Brazilians are extremely poor and survive on less than one dollar a day.

The figures above are also valid for children and adolescents in Brazil. The United Nations´ Children’s Fund - UNICEF estimates that more than 23% of children and adolescents in Brazil (14 millions) have their rights absolutely denied. They are children of approximately 9 million Brazilian families with a monthly per capita income lower than 1/4 of a minimum salary.

In Brazil there still are one million children between 7 and 14 years old that do not attend school in Brazil, 1,9 million illiterate young people, 2,9 million children between 5 and 14 years of age working, of whom 220,000 under 14 years of age work as house maids and 45,000 on the rubbish dumps (UNICEF, 2003).

The situation in the year 2004, almost 15 years after the Brazilian ratification of the Convention on the Rights of the Child, is that children and adolescents still starve in Brazil, they still use drugs not to feel hunger, and they are still denied education by not being strong enough to go to school. They still die of hunger, in the first years of the 21st century. The death of children due to lack of food in Brazil is even more serious if we consider that we live in a rich country².

Despite governmental initiatives infant mortality rates remain high. The 2000 Census shows an average of 29.6 deaths per thousand, this figure rises to 44.2 deaths per thousand in the Northeast of the country. Mortality among male babies is significantly higher than among female babies, the difference being 9.5 deaths per thousand. The gulf between white children and colored or black children is even more significant when it comes to the mortality rates of Brazilian children: 25 per thousand. This is a clear portrait of one of the most unequal societies in the world, in which poverty has a very specific quality: it is mainly non-white.

Regarding infant malnutrition, the data from the 1996 survey gives information on the number and severity of malnourished children, showing specifically that the rate of malnutrition of children under five was 10.5% at the time. More recent data does not come from this national survey but have been produced by the Integrated Primary Care System

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² See document about the visit of the Special Rapporteur on the right to food by the UN Commission on Human Rights: http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/b7a109d9387bc99dc1256cc6004d0c57/$FILE/G0310067.pdf
SIAB), based on information from the Family Health Program (PSF) and Community
Health Agents programs (PAS). These programs inform that in some Northeastern states infant malnutrition rates reach 17%, as in the state of Alagoas. Tables showing the levels of malnutrition per municipality in the state of Ceará, also in the Northeast, where the PSF program covers 47% of the population, it can be seen that there are several municipalities where the malnutrition rates of children between 12 and 24 months is above 25%. Despite all the existing legal apparatus and a strong investment in the reduction of infant mortality many Brazilian children still suffer from malnutrition or die from the lack of food of the appropriate quantity and/or quality.

In the specific case of education The 1988 Brazilian Federal Constitution (CF88) cited education as a “(...) right for all and duty of the State and the family (...)” (Art.205), covering all levels and modalities of school education. Significant advances were made, such as the recognition of the right to infant education (crèche and nursery school), the progressive expansion of compulsory education to 11 years (covering secondary schooling) and the linkage of 18% of the revenue form Federal taxes and 25 from the States and Municipalities for the maintenance and development of schooling. In 1990, the Statute of the Child and Adolescent (ECA) repeated the constitutional dispositions as to the amplitude of the duty to educate and incorporates fundamental aspects recognising children as subjects of rights.

However, national education policy, especially after the constitutional reform of 1996, favoured fundamental education through a sub-linkage of 60% of budgetary resources for this level.

Official data shows that in 2002, 97% of children between 7 and 14 are enrolled in school, approval rates to secondary education have also improved, the age-school year distortion has also decreased and teacher qualification has improved. However, mass enrolment has not been accompanied by the democratisation of knowledge. There has been a steep decline in terms of quality of teaching and progress in the syllabus. According to data from the Basic Education Evaluation System (Ministry of Education and Culture - MEC,2001), only 10,29% of students concluding fundamental education had satisfactory reading skills. Meanwhile, around ¼ of these students were at the critical or very critical levels, compatible at the most with the level expected of fifth grade the results are worse for mathematics. Almost all the students – 97.21% - are below the appropriate

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3 Programas de saúde comunitária, que prestam atendimento no nível primário.
level for the conclusion of fundamental education, most of them are at the critical level – 51.71% or very critical – 6.65%.

The apparent progress in effecting children’s educational rights comes up against a system that actually maintains and deepens inequalities of opportunity. There is a real segmentation regarding family income. Whilst only 1.2% of the richest 1/5 children do not attend school, these index reaches an alarming 9.2% of the poorest 1/5 of the population. (IBGE. 2000 Demographic Census). Concurrently, regional inequalities in access to and the quality of teaching are still profound. In the North and Northeast, for example, the failure of mathematics teaching is almost absolute, as only 0.63% and 1.36% reach the levels expected. These regions also have the majority of children out of school, with states where the index is over 16%.

One of the main reasons given for the huge failure of schooling is the low attendance of infant education, which has practically stagnated in the last decade. Of the 23,125,327 children aged between 0 and 6 only 32.09% are in school. The critical point is the population under three, which attends nursery schools, only 9.43%. Once more exclusion is greatest amongst the poor. Whilst 59.29% of children between 0 and 6 with a nominal family income above 5 minimum salaries attend nursery schools, pre-schools and schools; children of families with no income or incomes up to ½ a minimum salary have an attendance rate of only 21.47% e 27.18%, respectively. (IBGE. 2000 Demographic Census).

Child labour is another determining factor for studying results. Almost 27% of students in the 8th grade work (Saeb, 2001). Among the students with results classified as very critical in Portuguese, 68% declared that they are working. In Mathematics this figure was 59%. In general, the average studying results are significantly higher among the students who do not work.

This factor deepens at intermediate level. The economic difficulties experienced by most adolescents, which pressure them prematurely into the world of work; allied to the absence of supplementary programs to ensure the effective gratuity of learning (school transport, uniforms, text books and school meals) and the low quality of the schooling offered (responsible for the lack of perspectives as to access to public universities) raise the drop out levels at this stage to 16.7% (MEC/INEP)

As a rule, the rates of children and adolescents with disabilities that attend school is lower on the whole in relation to the population without a declared disability, even when they do not have special educational needs. There is low attendance amongst those with
permanent mental disabilities, due to the lack of cover for this special category. Of the 6,795 special needs establishments registered in 2002 (MEC/INEP), only 2,317 were linked to the municipal networks, demonstrating that most of the more than 5,000 Brazilian municipalities do not even offer this modality. Attendance of children with mobility difficulties is even lower, who even when not requiring special units are excluded by architectural barriers within and outside schools. Even at the fundamental level this public has a low attendance rate in relation to the general public: 68.31% of those aged between 7 and 9 and 71.29% between 10 and 14.

The persistence of educational exclusion is motivated by legal and budgetary retreats. The progressive extension of compulsory schooling to 11 years was removed in 1996, remaining restricted to the 8 years of fundamental school. Simultaneously, there has been a reduction in the overall resources destined to education. Currently, the maintenance and development of schooling costs around 4.3% of the Gross National Product - GNP; in 1998 this spending was 5.2%. On the other hand, studies elaborated by the Ministry of Education (MEC) itself estimate that increased investments will be necessary to reach the qualitative and quantitative goals set up in the PNE – reaching 5.75% of the GNP in 2006 and 7.95% in 2011 (the last year of the Plan). But the Presidency of the Republic vetoed nine of its articles, among them the article that makes an increase of the investments up to 7% of the GNP possible. Contrary to the expectations built up around the approval of the PNE in 2000 in the name of fiscal adjustment the plan was turned into a mere “letter of intent”. In this context it is not surprising that the massive increase in enrolment at fundamental and intermediate levels have been followed by a drop in performance standards.

The application and execution of non-custodial measures in Brazil continues in discord with the ideals of respect for the adolescent who commits an infraction. Overcrowding, mistreatment, torture, the lack of training of personnel and an architectural environment resembling adult prisons are some of the characteristics of the custodial system for adolescents.

Research by the Applied Economic Research Institute (IPEA), between the months of September and November of 2002, concluded that during that period there were 9,555 adolescents deprived of their freedom in Brazil, of whom more than 90% were males, 60% black, 81% lived at home on the date the infraction was committed, 51% did not attend school and 49% did not work. The majority committed crimes against property and almost half are in São Paulo, in institutions that do not incorporate the paradigm of integral
protection, using fear and physical violence as containment and disciplinary methods. These institutions expose inmates to extreme humiliation; making them shave their heads, walk in line with their heads down and hands behind their backs. Talking is forbidden and those who dare break the silence are disciplined with kicks and slaps. There is no preoccupation with health, education, leisure or any other right of the adolescent. Youngsters spend the day with no occupation and have visible skin diseases and complain of the lack of medical care.

This type of violence is repeated in other States. In Rio de Janeiro, adolescents pretend they are over eighteen to avoid serving their sentence in a socio-educational institution appropriate for their age, preferring to be taken to the penitentiary system where the possibility of being tortured seems less.

Another point of indignation is that the torturers, public servants charged with avoiding the situations that they themselves cause, are not brought to account leading to a repetition of these situations. There is a real trivialisation of adolescent’s lives.

The IPEA report also concludes that 71% of the 190 custodial units in Brazil do not fulfil United Nation’s requirements for holding offenders. Even those units considered adequate, were so considered for meeting security criteria and not for having an appropriate pedagogical proposal, indeed many of them have prison-like characteristics.

Non-custodial measures are underused (community service, for example) due to their inexistence or insufficiency in most Brazilian municipalities. As a rule, only the state capitals and the larger cities in metropolitan areas have the apparatus for this type of measure.

It must not be overlooked that in the fight against the offence it is not adolescents who should be combated but the situation of social inequality that contributes towards this type of behaviour. The inherent rights peculiar to the adolescent as a person in the process of development should always be respected.

In relation to the murder of children and adolescents in Brazil, the Parliamentary Commission of Inquiry of the Federal Chamber - CPI which analysed the murder of children and adolescents estimate that between 1988 and 1990 4661 persons under 17 were murdered, that is, around 4 murders a day. 52% were murdered by police officers or private security guards. 82% of the adolescents were black, 67% were male, and the highest risk group was between 15 and 17 years old. Complimenting this data from the
CPI, some studies that most child murder victims were not involved with crime or drug trafficking.⁴

According to the Databank of the National Movement for Human Rights (MNDH) about murders in 2001, which had newspapers as their source, of the 9,460 murder cases, 1,187 victims were children and adolescents, 12,5% of the total. Of these, 15,9% of the victims were female and 83,4% male.

Regarding mortality by murder in Brazil, a bulletin published by CLAVES/Fiocruz, concludes that: “The murders as a whole, did not form a homogenous totality, however the results from investigations already carried out reaffirm the strong components of class, gender, age, occupation of degraded urban spaces and the social exclusion of the victims”⁵. It also states that “the specific external cause that has grown the most in the last 20 years have been murders, which have increased 109% between 1980 and 1998. Apart from the gender bias, the profile of murders also indicates discrimination by social class. Although the information from the Morbidity/Mortality Information System (SIM) from the Ministry of Health do not permit an inference about income, geo-referenced surveys and by profession, reveal that the poor, favela dwellers living on the urban peripheries make up the profile of the majority of victims”⁶.

In the specific case of the internal legal framework, the 1988 Constitution specifically established in art. 227 that: “... it is the duty of the family and the State to guarantee to the child and the adolescent, as an absolute priority, the right to life, to health care, to food, to education, to leisure, to professional training, to culture, to dignity, to respect, to freedom and to life within the family and the community, and to safeguard them from any type of negligence, discrimination, exploration, violence, cruelty and oppression”.

In 1990, the internal legal order was integrated into the United Nations Convention on the Right of the Child, with its ratification by the National Congress and promulgation through Presidential Decree. This international resolution makes dispositions on the Human Rights of the Child⁷ and establishes that the member states, within their jurisdiction, have the obligation to respect and guarantee to every child the rights

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⁵ FIOCRUZ. Boletim do CLAVES (Centro Latino-Americano sobre Violência e Saúde). ‘Padrão de Mortalidade por Homicídios no Brasil 1980 a 2000. (Ano II - n° 07 - dezembro de 2002)’.
⁶ Idem.
⁷ This international norm is classified by the UN as a “Human Rights norm”, subject to monitoring by the Commission on Human Rights and the Special Commission on the Right of the Child, subordinated to the United Nations’ Economic and Social Council.
established in the Convention, with no distinction due to ethnic group, color, sex, religion, public opinion, nationality, etc.

On July 13th 1990 federal law nº 8069, named the Statute of the Child and Adolescent was approved in the same year as the Convention. The Statute stated that children and adolescents\(^8\) are subjects of rights and established the principle of absolute priority, consecrated in the Federal Constitution. “The law understands that the protection of the child should not only be a priority, but the first and most important among the priorities”\(^9\).

These legal advances have been insufficient to guarantee the rights of children. Attempts to change this picture have been timid; often they have benefited the middle class more than the poor. Research by the United Nations Development Program show that over the years the proportion of poor people in Brazil has remained more or less the same.

Finally, ANCED, in partnership with the DCA Forum, believes that it is fulfilling its role if this alternative report serves as an instrument to widen the civil society’s discussions on the effectuation of the rights of the child and the adolescent, and provoke the Brazilian state to adopt clear and powerful measures to overcome the problems related to these fundamental rights.

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8 “starting from the ordinary legislation, the generic constitutional concept of “child”, distinguishes between “child” (up to 12 incomplete years of age) and “adolescent” (from 12 to 18 incomplete years of age) while the expression “youth” is for persons older than 18 years of age, to a limit that the ordinary law will define later on” (Wanderlino Neto).
PRESENTATION

This report from civil society regarding the implementation of the Convention on the Rights of the Child in Brazil, to be sent to the United Nations’ Committee of the Rights of the Child in Geneva, is an initiative of ANCED – the National Association of Defense Centers for the Rights of the Child and the Adolescent, a non-profit body with its head office in Fortaleza. It is made up of 30 bodies in 14 States of the Federation together with the Permanent National Forum of Non-Governmental Bodies in Defense of the Rights of the Child and the Adolescent - DCA.

The objective of this report is to present the advances and retreats of the situation of the child-adolescent-youth in Brazilian society during the last ten years and, particularly, in the movements in defense of the child and the adolescent. It also intends to draw the attention of the international community to the serious violations of the rights of this group, in a country that has a poor history when it comes to human rights, especially those related to ethnic groups, gender, generations, etc.

Producing this report was a big challenge to ANCED, to tackle the analysis of the situation of human rights of the child and adolescent. “After all, it is not enough that Brazil, since its (re)democratization, is ratifying international instruments of protection of the human rights; it is fundamental that the country establishes clear and efficient measures to overcome the problems related to human rights”.

Brazil, the fifth largest country in the world, a major global economic potency, continues to be an unjust country, where inequality rules. Just take a look at the statistics that shock us year after year: While the richest 20% of the population receive 63,8% of the national income, the poorest 20% receive only 2,5% of the total. The study “Social Politics: follow up and analysis (2000), from the Institute of Applied Economic Research - IPEA shows that 57 million Brazilians (35% of the population) live in a state of poverty, that is, their monthly per capita family income is less than half a minimum salary (50 USD). 15% of the Brazilians are extremely poor and survive on less than one dollar a day.

Furthermore, 15% of Brazilians are illiterate, 24% do not have running water and 35,4% are deprived of sewage systems or septic tanks. The regional differences in Brazil are enormous. For the Northeastern region, the numbers presented above are even more dramatic: while only 30% of the population lives in the Northeast, the region is home to 62% of the poor Brazilians.
The attempts to change this picture have been weak; often they have benefited the middle class more than the poorest. Research from the United Nations’ Program for Development (UNDP) shows that the proportion of poor people in Brazil has stayed more or less the same over the years.

The figures above are also valid for children and adolescents in Brazil. The United Nations’ Children’s Fund - UNICEF estimates that more than 23% of children and adolescents in Brazil (14 millions) have their rights absolutely denied. They are children of approximately 9 million Brazilian families with a monthly per capita income lower than 1/4 of a minimum salary.

This explains why we still find one million children between 7 and 14 years old that do not attend school in Brazil, 1,9 million illiterate young people, 2,9 million children between 5 and 14 years of age working, of whom 220.000 under 14 years of age work as house maids and 45.000 on the rubbish dumps (UNICEF, 2003).

In the specific case of the internal legal framework, the 1988 Constitution specifically established in art. 227 that: “… it is the duty of the family and the State to guarantee to the child and the adolescent, as an absolute priority, the right to life, to health care, to food, to education, to leisure, to professional training, to culture, to dignity, to respect, to freedom and to life within the family and the community, and to safeguard them from any type of negligence, discrimination, exploration, violence, cruelty and oppression”.

In 1990, the internal legal order was integrated into the United Nations Convention on the Right of the Child, with its ratification by the National Congress and promulgation through Presidential Decree. This international resolution makes dispositions on the Human Rights of the Child11 and establishes that the member states, within their jurisdiction, have the obligation to respect and guarantee to every child the rights established in the Convention, with no distinction due to ethnic group, color, sex, religion, public opinion, nationality, etc. The Convention is one of mankind’s most important international treaties. It affirms the necessity to live up to the ethical, political and legal obligations of the rights of they child as part of the universality and integrality of fundamental rights and human dignity.

On July 13th 1990 federal law nº 8069, named the Statute of the Child and Adolescent was approved in the same year as the Convention. The Statute stated that

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children and adolescents\textsuperscript{12} are subjects of rights and established the principle of absolute priority, consecrated in the Federal Constitution. “The law understands that the protection of the child should not only be a priority, but the first and most important among the priorities”\textsuperscript{13}.

But these legal advances have not been sufficient to guarantee the rights of this young population. The Convention also makes dispositions in article 44: “States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the execution of those rights: (a) Within two years of the entry into force of the Convention for the State Party concerned; b) Thereafter every five years”. Unfortunately, it is only after 13 years that the Brazilian state has presented the report on the effectuation of the Convention.

This report is divided into two parts. The first intends to approach four rights from an analytical point of view: 1. The right to participation, focusing on administration; 2. The right to survival, through health issues, especially malnutrition; 3. The right to development, a discussion about education starting from the right to quality fundamental education; and 4. The right to protection, a study about adolescents in conflict with the law (access to justice/ guarantee of the obligatory legal process in the application and execution of socio-educative measures) and a presentation of the problem of murders of young people in Brazil.

The second part is children and adolescent’s views regarding their rights. The children taking part are cared for by various projects that receive funding and technical support from the Foundation Terre des Hommes in Brazil: Rede Amiga da Criança, a network of 23 bodies that work with children and adolescents on the streets of São Luís, capital of Maranhão; Rede Rio Criança, a network of 13 bodies that work with children and adolescents on the streets in Rio de Janeiro; Associação Curumins, an institution that works with children and adolescents on the streets and exploration of child labor in the city of Fortaleza, capital of Ceará and Projeto Circo Baixada, a project of family and

\textsuperscript{11} This international norm is classified by the UN as a “ Human Rights norm”, subject to monitoring by the Commission on Human Rights and the Special Commission on the Right of the Child, subordinated to the United Nations’ Economic and Social Council.

\textsuperscript{12} starting from the ordinary legislation, the generic constitutional concept of “child”, distinguishes between “child” (up to 12 incomplete years of age) and “adolescent” (from 12 to 18 incomplete years of age) while the expression “youth” is for persons older than 18 years of age, to a limit that the ordinary law will define later on” (Wanderlino Neto).

community integration for children and adolescents on the street/at risk in the municipality of Queimados, Baixada Fluminense.

Other rights were not contemplated in this report due to two problems: the short period of time to conclude the document, which prevented a high-quality analysis of a large quantity of material and, secondly, the imprecise information and lack of statistics. In the specific case of violence in Brazil, there is no exact definition of the concept of violence and there are no adequate indicators to measure such a concept. The research on victimization in Brazil does not follow the common standards of indicators.

The sources used are official and in the specific case of analyzing violence we also used the database of the National Movement of Human Rights – MNDH, based on newspaper information.

It must be stressed that the press alone is not an adequate source of statistics on violence, as it presents a rate of sub-notification of the number of murders that actually occurred. However, due to the lack of a unified system of criminal statistics, the press serves as a collaborative source for constructing profiles of the victims and accused persons in murder cases. Unfortunately, official statistics on violence and criminality in Brazil do not have standardized collection procedures that would allow us to draw up profiles of the suspects/persons accused of murder.

Finally, ANCED, in partnership with the Fórum DCA, believes that it is fulfilling its role if this alternative report serves as an instrument to widen the civil society’s discussions on the effectuation of the rights of the child and the adolescent, and provoke the Brazilian state to adopt clear and powerful measures to overcome the problems related to these fundamental rights.
1. RIGHT TO PARTICIPATION: THE SYSTEM OF PROTECTION OF HUMAN RIGHTS FOR CHILDREN AND ADOLESCENTS

Aiming to adapt the internal legal system to the Convention on the Rights of the Child and complement the programmatic norms of the Federal Constitution\textsuperscript{14} regarding the specific fundamental rights of the child and adolescent – Federal law 8.069, established on July 13\textsuperscript{th} 1990 (Statute of the Child and the Adolescent) “general norms” for the "protection of child (…)”,\textsuperscript{15} recognizing the child and the adolescent as "subjects of rights" and simultaneously "persons in a particular condition of development".\textsuperscript{16} Based on this, the Statute recognizes and explicates, in favor of the child (children and adolescents), certain human rights, related to health, education, culture, leisure, work and social welfare, social assistance and fundamental liberties, without giving less recognition to other human rights (civil, political, economic and social) granted to every citizen in the Federal Constitution.

Furthermore, in order to guarantee the effectuation of these fundamental rights (general and special), the Statute outlines a specific system of protection of generational human rights,\textsuperscript{17} inspired by the regional and international system of correspondent protection.

According to this norm, this protection system should be institutionalized and implemented with the proactive participation of children and adolescents and the population in general (through their representative organizations) in its development and operationalization. This system should also obey other paradigmatic principles:\textsuperscript{18}

a) Prevalence of the best interest of the child and adolescent in the effectuation of positive law and the development of public policies;

b) Absolute priority to issues concerning children and adolescents, by the State and society;

c) Political-administrative decentralization in the coordination and execution of programs and public policies;

d) Maintenance of special public funds to finance determined protection programs;

\textsuperscript{14} FEDERAL CONSTITUTION – arts. 226, 227 and 228.

\textsuperscript{15} Because of the content in article 24, XV and § 2nd of the FEDERAL CONSTITUTION, that determines that it is the responsibility of the Federation and the States and the Federal District to legislative in harmony with the “protection of the child and the youth”.

\textsuperscript{16} STATUTE OF THE CHILD AND THE ADOLESCENT - article 1st and 6th.

\textsuperscript{17} In Brazil, traditionally known as “Guarantee System of the Rights of the Child and the Adolescent”, based on the doctrinal constructions of ANCED and the norms of the National Council of the Rights of the Child and the Adolescent – CONANDA.

\textsuperscript{18} STATUTE cit. - art. 88
e) Operational integration of Governmental and Non-Governmental bodies, in specific cases of initial care of certain groups of children (adolescents in conflict with law, for example); and

f) Social mobilization in favor of the effectuation of the rights of the child and adolescent.

Such a system – based on these principles – should be operationalized through certain public spaces and specific administrative and judicial measures. According to the Statute, such an operationalization will be accomplished through the strategic lines of (a) promotion, (b) control/monitoring and (c) guarantee of the rights with the following responsibility of the State and society for the effectuation of the fundamental rights of the child and adolescent.

The strategic axe promotion of the realization of the rights of the child and the adolescent, within the general system of protection, is consolidated in the development of a "political policy for the rights of the child and the adolescent",\(^\text{19}\) that integrates the sphere of Politics of Promotion of Human Rights; strategically cutting transversally and intersectorially across all public policies (institutional, economic and social\(^\text{20}\)); strengthening the idea that the satisfaction of basic needs, by any of those public policies, is a right of the child-citizen and adolescent-citizen and, simultaneously, a duty for the state, the family and society.

To operationalize the direct execution of this policy to promote generational human rights, initially and as an emergency measure, the law\(^\text{21}\) establishes the intervention of the following services/activities and programs/projects:

a. Special protection, that is, refuge, placed in family, counseling and socio-familiar support and socio-educative support in open regimes – all these with educational content, security and assistance for any child or adolescent who has any of his/her rights threatened and violated\(^\text{22}\) or an underage group of offenders;

b. Socio-educative, that is, sanctioned internment, semi-freedom or assisted freedom, with educational content, destined to adolescents accused of a criminal act.

The law gives special protection programs the responsibility of developing both preventive and resoluble affirmative actions in favor of these rights and against violations

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\(^{19}\) STATUTE - article 86

\(^{20}\) Public political policies of education, health care, social assistance, work, culture, public security, international relations, tourism, etc.

\(^{21}\) STATUTE – art. 90.

\(^{22}\) Victims of sexual abuse, abuse, drug addiction, child labor, children that do not frequent school, that are not attended by the public health care units, abandoned by the family, disappeared, etc.
of them, in order to minimize the effects of violations and effectively care for the child or adolescent who is a victim of threats or violations of rights. Operationally, special protection programs and services should work as "nuclei of initial basic care",\(^{23}\) politically and administratively decentralized.\(^{24}\) They should, in essence, act as advocates in favor of this target group who are "creditors of rights";\(^{25}\) by complimentary and definitive care, through other programs, services and measures from other social, institutional and economic political policies,\(^{26}\) in synergy. In this way, they will be the first line of support for bodies and institutions working with the rights of children and adolescents (the judiciary, tutelary councils\(^{27}\), public prosecution service, public security, etc.), that is, programs responsible for the execution of the decisions of these bodies and institutions.

In addition to these services and public programs, Governmental bodies should be created in order to plan, coordinate and supervise actions and activities in this area, carrying out the function of true “strategic-conceptual nuclei”. These are the bodies that should substitute the old Foundations of Well-Being of the Minor – FUNABEM (federal) and FEBEMs (state level), derived from the old care system that was normatized by the former Minors Code – both in dissonance with the principles of the Convention. Based on this understanding, the Brazilian Center for Child and Adolescence Foundation (CBIA) was created in the Federal sphere, with offices in the states. Meanwhile, the states and the Federal District initiated a process of political-institutional reorganization of their old FEBEMs. Later on, the CBIA Foundation was abolished, leaving parts of its actions under the responsibility of the State Secretariat for Human Rights (through its subsecretariat of the Promotion of the Rights of the Child and Adolescent) of the Presidency of the Republic.\(^{28}\)

The constant information and figures from innumerable research studies carried out by many academics, Governmental and Non-Governmental organizations and international and multinational agencies and bodies\(^{29}\) during the last decade\(^{30}\) show, among other things, a difference between the “legal-country” and the “real-country”, where

\(^{23}\) Law cit. - art. 87, III to V; 90, I to IV and 101 – law cit.
\(^{24}\) Under responsibility of the local power, that is, the municipality.
\(^{25}\) Lei cit. - art.98.
\(^{26}\) Public political policies of education, health care, social assistance, work, culture, public security, international relations, tourism, etc.
\(^{27}\) Autonomouus body composed of five elected community representatives who are responsible for implementation of the rights of the Child
\(^{28}\) At the time that CBIA was abolished, this role was the responsibility of the National Secretariat of Human Rights (Department of the Child and the Adolescent) of the Ministry of Justice.
the function of the aforementioned public coordination bodies and their programs and services in execution still fall short of the legal norms. All of them face serious difficulties in being efficient and effective in the promotion of the effectuation of the Convention and the internal legal order.

Therefore, this report registers (based on the cited sources) that the bodies mentioned above, which were created to coordinate these policies to promote the Human Rights of children and adolescents (in the federal, state and municipal sphere), still have not attained the protagonism necessary to fulfill the requirements in the adaptation process of the national institutional order to the Convention. At a federal level, the command of these politics is the responsibility of a body with a small structure, little force and social and political visibility and with a ridiculously small public budget in relation to the real needs. In the states the experiences of substitution of the FEBEMs are heterogenic: in a states there are reasonably organized and strong bodies, but most reflect the national picture and in certain states the situation is close to public disaster. At a municipal level, the situation is even more serious: the bodies in command are distorted and weak or they do not exist at all.

The level of implementation of these public programs of special protection is very low in all three spheres of the Federation, according figures and information that has been gathered and analyzed. For example: both special judges and tutelary councils find a small number of bodies (Governmental and Non-Governmental) at their disposal as refuge centers where children and adolescents with family problems can be placed until their return to their natural family is guaranteed or substitute families are found (adoption, foster, etc.). The services of prevention and medical and psychosocial support to victims of sexual or child labor (such as the Federal Government PETI-Program for the Erradication of Child Labor and SENTINELAS – Program for the Victims of Sexual Abuse through agreements with the municipalities) have little coverage in the country (it does not reach half of the municipalities) and they are not universal programs, but focused (the number of vacancies is limited and predetermined).

The socio-educative programs should function in a similar way, with fast and exceptional initial attention, complementation between institutions and in relation to the executive organs of other public policies, as shown above. This reality is examined in another part of this report.

31 Idem.
The strategic axle to guarantee the rights of the child and adolescent and accountability for the respect of these rights\(^{32}\) (as part of the general system of protection of generational human rights) consists of "access to justice",\(^{33}\) that is, the possibility of using institutional public spheres and judicial mechanisms of "legal protection" of (general and special) human rights and the fundamental liberties of child and adolescence; to guarantee the imposition of these rights and the concrete possibility of claiming them.

The special Courts for the Child and Adolescent and the Tutelary Councils should be the preferential 'portals' to this other network of protection/charge of responsibility of the rights of the child and adolescent. To support this "access to justice", this "administration of justice to anyone who needs it",\(^{34}\) the Statute establishes the essential intervention of

✓ The Prosecution Service (Federal and State),
✓ Law Enforcement Agencies (Federal Police, Highway Police, Civil and Military Police),
✓ The Public Defenders Office and other Social Services (the Brazilian Bar Association, Defense Centers and other social bodies of defense, etc.)
✓ Multiprofissional legal teams, etc.

Finally, to guarantee the effectuation of the rights of children and adolescents and this legal charge of responsibility for the violators of those rights, the Statute establishes one more list of judicial measures:

(a) Socio-educative measures (non-penal, legal), applicable to adolescent offenders (article 112 and the following);

(b) Special protection measures (legal or administrative), applicable to children and adolescents with violated or threatened rights;

(c) Special protection measures (administrative), applicable to children to whom offenses are attributed (article 98 and the following);

(d) Measures that give responsibility (administrative) to parents and responsible parties (article 129 and following);

(e) Sanctions (non-penal, legal) for the heads of bodies that work with children and adolescents, for irregularities in the exercise of their functions (article 191 and following);

(f) Sanctionary measures (non-penal), applicable to anyone who violates the norms of child and adolescent protection (article 194 and following);

\(^{32}\) Defence of Rights.
\(^{33}\) STATUTE. Art. 141
(g) Compensations and obligations to do or not to do, to protect the individual, general and collective rights of children and adolescents harmed by the Public Power as a result of civil public acts;

(h) Mandatory actions;

(i) Penal sanctions on persons sentenced for committing crimes against children and adolescents (article 228 and following and all Brazilian penal legislation).

Courts specialized in the Statute of the Child and Adolescent only exist in the capitals and some other major cities. The judicial criminal courts specialized in crimes against this group only exist in three capital cities: Recife, Salvador and Fortaleza. The Tutelary Councils also do not reach even half the Brazilian municipalities, their distribution is very heterogeneous: there are states with almost total coverage (Santa Catarina, Minas Gerais, Ceará, Paraná, for example) and others with very low coverage (approximately one third of the municipalities): Amazonas, Bahia, Pernambuco, for example.

Finally, the strategic axle of control over respect for children's and adolescent's rights, within the general system of protection cited above, should be carried out through public arenas and monitoring mechanisms, evaluation and correction, that is, (a) the social-spread control done by organized civil society, especially through its forums, committees, etc. and (b) the institutional control by the Councils on the Rights of the Child and Adolescent.

These Councils should, deliberatively, by the force of law, exercise the following attributions to fulfill their mission:

(a) Normatization/formulation of general programmatic guidelines in order to guarantee the priority of the care of children and adolescents in all public political policies (institutional, economic and social) and to guarantee the linkage/integration of these policies in favor of child and adolescence;

(b) Normatization/formulation of specific operational guidelines for the development of the special protection and socio-education services/programs specifically established in the Statute.

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34 A widened sense of “justice”, not to be confused with “Judiciary” or “Administration of Justice”.

35 But not penal, as sanction and penalty are not synonyms and are not to be mixed up, according to the legal norms in force, the dominant jurisprudence and the good judicial doctrine in Brazil.

36 Without decreasing the general controlling action by other organs with this task, like Parliament, the Audit Offices, the Public Prosecution Authority and the special controlling institutions (Ombudsman, Auditors and Inspection Services), for example.

37 Article 90
(c) Control (monitoring and evaluation), particularly of Governmental and Non-Governmental actions resulting from this policy of respect for the rights of the child and adolescent (with special attention to budgetary control, under the current circumstances). This subsystem of monitoring and control should be one of the most prevalent fields of action in order to guarantee the efficiency, force and effectiveness of the public spaces and the mechanisms of this protection system. In fact, during the last 13 years, its level of implementation has been unsatisfactory, according to the figures and information that have been gathered and analyzed.

In quantitative terms, the picture is the following:

- The National Council for the Rights of the Child and Adolescent – CONANDA, was created and implemented (1991) and has functioned regularly during these 13 years, with ordinary meetings every month and, principally, the (a) production of resolutions, administratively standardizing determined aspects of the operationalization of a specialized policy of promotion of generational human rights and (b) the political administration of the National Fund for the Rights of the Child and the Adolescent;
- The State Councils were created and are functioning in all 27 units of the Federation;
- The Municipal Councils have been created in two thirds of Brazilian municipalities.

In terms of quality, there is a low level of effectiveness in the control actions (monitoring) of these councils\(^\text{38}\). The following can be said about advances and obstacles:

- The control, registry and monitoring of the public organs and social bodies and their programs\(^\text{39}\), by the municipal councils of rights is not exercised by a good part of these organs and when it is done, it is purely in a formal manner;
- there is little development of monitoring actions, both in budget elaboration and execution, as expected, considering that the public financial resources the last few years have tended to decrease when they include spending on public policies directed to the this target group;

\(^{38}\) In which its unquestionable mobilizing role is important.  
\(^{39}\) STATUTE cited - single paragraph of art. 90 and the caput of article 91
- The follow-up and evaluation of the development of socio-educative programs is insufficient (in internment and semi-freedom units, initial care units and assisted freedom programs);
- Idem, for the special protection programs determined by the Statute, in particular the refuge centers programs;
- The Governments do not give priority or value to the participation of their representatives in the councils;\(^40\)
- The role of mobilizing public opinion was developed in a satisfactory manner, with a good level of efficiency and effectiveness.

To make this control mechanism (monitoring and evaluation by the aforementioned councils and organized civil society) develop in an efficient, powerful and effective way, the following steps are necessary:

- a wide discussion in the sphere of social organization, especially through civil society networks (forums), in order to place these issues on the political agenda and mobilize society;
- The elaboration of a diagnostic of the situation\(^41\), with periodic updates, by organized civil society and councils;
- The construction of a "planning matrixes", with monitoring and evaluation indicators, initially by these examples of civil society and the Government, with indications ("sociopolitical plans");
- Examination and referendum on this material by the Councils of Rights, for the promulgation as "administrative regulating norms", with a deliberative and linking character, as reasonable.

Currently, it can be affirmed that the implementation of the so called “guarantee system for the rights of the child and adolescent”, under protection of the Convention on the Rights of the Child, is the result of a relevant and prior normative reorder, especially with the promulgation of the Statute of the Child and the Adolescent and a series of State and municipal laws of adaptation to the internal legal order of the Statute and the Convention itself. However, the implementation of the aforementioned system should, imply in a radical political-institutional reorder in the country and result in the creation and regular function of public arenas (Governmental and Non-Governmental), that should

\(^{40}\) One can, for example, observe a low participation of the representatives of the Federal Government in the National Council (cfr: Acts from CONANDA);
\(^{41}\) On this point it is necessary to evolve the academic sphere (Universities) more, without diminishing the contribution of the autonomous Centers of Studies and Research, etc.
satisfactorily fulfill the role of protector of Human Rights, in the field of justice and in public administration, particularly. The consequence of the low level of implementation of certain organs, services and programs, is that the desired or needed improvement of the special protective care of at-risk children has not been reached. Children and adolescents still suffer from violations of their rights to survival and development and they have a low grade of proactive participation in public life.

In conclusion, talking about "protection of the human rights of the child and the adolescent" in Brazil today has a new meaning: it stresses the linkage between the regulating norms and the institutional system of effectuation of these norms and the global and national system of protection of human rights. It means the promotion of a major commitment with the perspective of the law of Human Rights and, thus, a rejection of any temptation to create an isolated and autonomous branch of law and system of protection. It is a rejection of any temptation to de-link the local and global movement for the emancipation of children and adolescents from the major movement for emancipation of the citizens, especially those who are "oppressed", at social disadvantage: women, landless rural workers, homeless, black people, homosexuals, indigenous and socially excluded groups, for example.
2. THE IMPLEMENTATION OF THE RIGHT TO HEALTH FOR BRAZILIAN CHILDREN – MALNUTRITION AS A VIOLATION OF HUMAN RIGHTS

“(...) in Brazil, where there is fertile soil, wealth and a tropical climate, hunger is genocide. (...) Anyone who dies of hunger in Brazil is murdered.”
Jean Ziegler

ADAPTATION OF NATIONAL LEGISLATION

Through the 1988 Federal Constitution (CF/88) and federal laws n° 8069/90 (the Statute of the Child and Adolescent– ECA) and n° 8080/90 (the Organic Health Law), the Brazilian legislature accepted the challenge of adjusting the national legal system related to the right to health, to the determinations of the Convention on the Rights of the Child regarding the issue.

The State shall promote programs of integral health care for children and adolescents (CF art. 227, §1°), expanded to include maternity-infant care (CF art. 227, §1°, I), and make special efforts in the prevention of disabilities and full social inclusion of children and adolescents with disabilities, so that they can fully enjoy their rights (CF art. 227, §1°, II).

The Brazilian Constitution guarantees integral health protection for children and adolescents, as an absolute and fundamental right, as a priority. At least from a legislative point of view, the Convention on the Rights of the Child, – in consonance with the normative framework of the international system of protection of the human rights (inter alia the International Covenant on Economic, Social and Cultural Rights) – is less demanding regarding economic, social or cultural rights than the Brazilian legal framework.

Following the spirit of the CF/88, the ECA, from art. 7 to 14, makes specific recommendations related to the right to health, emphasizing prenatal care, the importance of the breast-feeding period and special attention to children and adolescents with disabilities. The same law also obliges the State to offer integral care to children and adolescents aiming at the full enjoyment of the right to health.

The Organic Social Care Law, n° 8742/93, also brings definitions supporting the implementation of child and adolescent protection and respect for their social rights,

42 UN Special Rapporteur on Food, following a 18-day-visit in Brazil, in the Folha de São Paulo news paper, March 18th of 2002.
43 ECA Art. 11 – medical care is guaranteed to children and adolescents through the Public Health System (SUS), offering equal access for everyone to the services and actions that promote, protect and recover health; ( ...) § 2° It is the duty of the public authorities to supply, medical drugs, proteases and other resources related to treatment, habilitation and rehabilitation.
among them the right to health. In this context it is worth mentioning that the so-called “continuous benefit”, the minimum salary offered monthly to improve the living conditions for people with disabilities, has had a positive impact on the lives of children and adolescents with disabilities.44

There is in fact, principally through the CF/88 and the ECA, a legal framework perfectly adjusted to international norms, and directed at protecting the rights of children and adolescents, i.e., promotion, guarantee and control/monitoring of respect for these fundamental rights that are specific to the health sector.

THE POLITICAL-INSTITUTIONAL IMPLEMENTATION OF THE RIGHT TO HEALTH

This report will focus on just one of many violations of the right to health - malnutrition. Problems of malnutrition are not the only ones that torment Brazilian children (although, if they were, they would be enough). The right to health is disrespected every day in the most varied forms: the low coverage of prenatal care, as well as the low level of schooling among pregnant women (who do not understand the importance of medical check-ups for the unborn baby), the statistics of infant mortality and malnutrition continue very high; the access to basic sewage fails to meet health standards, and so does the access to medical doctors, nurses and other health professionals; reports on neonatal deaths in intensive care units are frequent (mainly caused by overcrowding); shortages of drugs to give children adequate treatment, and so on. The lack of knowledge about rights among the population and obstacles in the access to justice also contribute to the disrespect of these rights45. Among Afro-Brazilian children and adolescents, Unicef draws attention to the high frequency of falciform anemia. Another field in which there is a lot to be done is that of children and adolescents with disabilities, who do not have access to instruments that guarantee their social inclusion and, consequently, are constantly denied various rights, such as education, leisure and full development.

The theme of malnutrition was chosen for this report because this violation of the right to health is closely related to another right that no human being should be denied in

44 Art. 20. The continuous benefit corresponds to 1 (one) minimum salary per month to persons with deficiency and old people above 70 years of age who can prove that they have no means to support themselves, nor can they receive this support from their families.
45 The Child and Adolescent Defense Center in Ceará (Cedeca Ceará), for example, brought a few cases of protection of children and adolescents’ health care to court: cases aiming to guarantee drugs and treatment of children and adolescents with rare diseases, food complementation for children and adolescents with cow milk resistance and treatment of adolescents in risk of drug addiction. All cases were victorious and all children and adolescents attended, except for the drug addicted adolescents (living on the street), who still have not their right to health care guaranteed, because of questions that go beyond the court system.
such a rich and creative world: food safety, the right to eat. Besides, we consider this right threatened by the growing culture of consumption that “deeducates” in the case of food and nutrition, with incentives to meals with high quantities of fat and low contents of truly nutritious ingredients.

The situation in the year 2004, almost 15 years after the Brazilian ratification of the Convention on the Rights of the Child, is that children and adolescents still starve in Brazil, they still use drugs not to feel hunger, and they are still denied education by not being strong enough to go to school. They still die of hunger, in the first years of the 21st century. The death of children due to lack of food in Brazil is even more serious if we consider that we live in a rich country.

CHARACTERISTICS OF MALNUTRITION

Malnutrition is a possible result of bad nutrition, that is, the intake of food in inadequate quantities and/or quality. The specific type of malnutrition discussed below is protein-energy malnutrition.

Whatever its origin, malnutrition can be manifested in three levels:

- **First grade malnutrition (light)** – the weight of the child is 10 to 25% below what is considered the normal weight for its age.
- **Second grade malnutrition (moderate)** – the deficit is between 25 and 40%.
- **Third grade malnutrition (serious)** – the loss of weight is 40% or above, or the malnourished person presents edema, independent of weight.

According to specialists in the area, most of our malnourished population suffers from light malnutrition:

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46 See document about the visit of the Special Rapporteur on the right to food by the UN Commission on Human Rights: http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/b7a109d9387bc99dc1256cc604d0c57/$FILE/G0310067.pdf
47 Other possible results of malnutrition are anemia and obesity.
48 One of the most common classifications of malnutrition, the Gomez, defines the following types: **primary**: low socioeconomic level – poverty, nutritional privation, bad hygiene conditions leading to frequent infections and hospital admissions, low educational and cultural level, neglect, lack of breast feeding, affective privation. In this case, diet correction is sufficient for a cure; **secondary**: in spite of having access to food, there are other factors that impede the digestion and absorption – bad absorption, narrow pylorus, or increase of the necessity - hyperthyroidism. Its evolution will depend on the disease that caused it; **mixed**: situation where both mechanisms are involved.
49 [http://www.hospvirt.org.br/enfermagem/port/desnutri.htm](http://www.hospvirt.org.br/enfermagem/port/desnutri.htm) in January 18th, 2004
“In terms of population, there is a predomination of first grade malnutrition, where the organism gets used to a food intake below its needs, which, in general, continues throughout life. This causes interrupted growth and that is why “height is so valued in population studies, it is seen as an indicator of the current state of nutrition or, principally, the former”. Studies show that the poorer levels of society generally have a balanced food intake, from the qualitative point of view, but in insufficient quantities.50

Child malnutrition can provoke the so-called short nutritional stature, nutritional ratchets and physical retardation due to malnutrition, as well as mental disabilities.

In Brazil, malnutrition is present on various levels. Some children already suffer before birth. They are born with low weight due to their mother’s malnutrition. There are still a high number of infant deaths because of food insufficiency and problems passed on from the pregnant woman to the fetus and, surprisingly, very high numbers of malnutrition of children up to 60 months of age (although the statistics available in the latter example are not as precise as they should be).

INFANT MORTALITY NUMBERS

In spite of the considerable reduction of infant mortality during recent years51, Brazil still presents alarming levels, which are totally unacceptable. Even so, it is a fact that the Brazilian state has invested considerable human and financial resources to reduce infant mortality among children up to one year of age, mainly through investments in the primary health sector, giving incentives to prenatal care and exclusive breast-feeding up to six months of age, following the orientations from the World Health Organization (WHO).

Furthermore, the gap between white children and colored and black children is obvious52. The Brazilian Institute of Statistics and Geography (IBGE) currently provides complete statistics from 1993/1994 and the preliminary figures from the 2000 census. Although this information is old, it is relevant because it shows the difference in quality of life for children from different ethnic groups and regions in the country. It also introduces another question directly linked to the malnutrition problem: the mortality of children up to five years of age (60 months).

50 idem
52 As the Brazilian population is highly miscegenetic, the category colored is used to indicate the descendants of Indians and white people, white and black or indigenous and black people.
<table>
<thead>
<tr>
<th>Brazil and large regions</th>
<th>Rate of Infant Mortality/1000</th>
<th>Mortality Rate of children up to 5 years of age/1000 (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Men</td>
<td>Women</td>
</tr>
<tr>
<td>Brazil</td>
<td>39,4</td>
<td>30,0</td>
</tr>
<tr>
<td>North</td>
<td>37,8</td>
<td>27,3</td>
</tr>
<tr>
<td>Northeast</td>
<td>58,9</td>
<td>46,3</td>
</tr>
<tr>
<td>Southeast</td>
<td>29,7</td>
<td>21,5</td>
</tr>
<tr>
<td>South</td>
<td>25,9</td>
<td>19,6</td>
</tr>
<tr>
<td>Mid-West</td>
<td>28,8</td>
<td>23,4</td>
</tr>
<tr>
<td></td>
<td>White</td>
<td>Black and colored</td>
</tr>
<tr>
<td>Brazil</td>
<td>37,3</td>
<td>62,3</td>
</tr>
<tr>
<td>North</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Northeast</td>
<td>68,0</td>
<td>96,3</td>
</tr>
<tr>
<td>Southeast</td>
<td>25,1</td>
<td>43,1</td>
</tr>
<tr>
<td>South</td>
<td>28,3</td>
<td>38,9</td>
</tr>
<tr>
<td>Mid-West</td>
<td>27,8</td>
<td>42,0</td>
</tr>
</tbody>
</table>

Source: IBGE/DPE/Department of Population and Social Indicators. Division of Studies and Analyses of Demographic Dynamics. Project UNFPA/BRAZIL (BRA/98/P08) – Integrated System of Projections and Estimations of Populations and Socio-demographic Indicators.

(1) Estimates obtained applying indirect demographic techniques to the information of survival among children born alive given by the women and collected by the PNAD in 1996. Because of this technique, the results of these estimations, in average, refer the period of 1993/94 and not to the year of 1996.

(2) Statistics from 1996.

The mortality of male babies is significantly higher than among female babies, a difference of 9.5 deaths per 1000 live births. Even more significant is the difference between white children and black or colored children: almost 25 per 1000 live births. It is a
clear picture of one of the most unequal societies in the world, where poverty has a very specific characteristic: the majority are not white.

These statistics do not present specific numbers on the situation of indigenous children, but there is information indicating that infant mortality among indigenous children is also particularly high – a reflection of the social exclusion of Brazilian native peoples.

Unofficial statistics that the Brazilian Society of Pediatrics received from the IBGE show that infant mortality among indigenous children is almost twice as high as the national average rate:

The infant mortality among indigenous peoples in Brazil is 55.9 per 1000 live births – almost double the numbers for the general population collected in the 2000 Census and published by the IBGE in 2002, which is 29.6 deaths per thousand live births. The data on indigenous people refers to the year 2002 and was passed to the Brazilian Society of Pediatrics (SBP) by the National Health Foundation (FUNASA). These statistics are preliminary and show a slight reduction compared to 2001 when the rate was 57.2. It is known, however, that in some indigenous communities the rate is even higher.\(^53\)

The information on mortality among indigenous children and the lack of a specific political policy to reduce the infant mortality among the non-white population permit us to affirm that, in spite of the reduction of the infant mortality rate in general, the indigenous, Afro-Brazilian and colored populations are over represented among the deaths during the first year in life, a clear lack of respect of the right of children and adolescents to receive equal treatment and equal opportunities (Convention on the Rights of the Child, art. 2).

Finally, the historic differences between the large regions in Brazil are clear: whilst child mortality among white children in the rich South-East of Brazil in 1993/1994 was 25.1 per thousand, the same figure for black and colored children in the constantly poor Northeast was 96.3 per thousand.

The most recent statistics from the IBGE on infant mortality, not yet divided by color and sex, are from the year 2000. They show a real reduction of the infant mortality rate between the years of 1993/1994 and 2000, but the numbers are still very high. Unfortunately, these figures do not permit us perceive the brutal difference that exists between white and Afro-Brazilian children, nor examine the possible differences between male and female children, because these divisions are yet to be systematized. But it is

\(^{53}\) http://www.sbp.org.br
possible to observe regional figures, that show clearly that the huge differences that were pointed out above continue: whilst the mortality in the South is 19.7 per thousand, the Northeast still has a rate of 44.2 per thousand, including local “peaks” of up to 62.54 deaths per thousand live births, which is the case in the State of Alagoas.

Rates of Infant Mortality in Brazil – Census 2000

<table>
<thead>
<tr>
<th>Region</th>
<th>Rate of Infant Mortality</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>29.2</td>
</tr>
<tr>
<td>Northeast</td>
<td>44.2</td>
</tr>
<tr>
<td>Southeast</td>
<td>20.6</td>
</tr>
<tr>
<td>South</td>
<td>19.7</td>
</tr>
<tr>
<td>Mid-West</td>
<td>21.2</td>
</tr>
<tr>
<td>Brazil</td>
<td>29.6</td>
</tr>
</tbody>
</table>

Source: IBGE

Today, there is still a difference between the Northeast and South regions of more than 20/1000 deaths of children born alive before they complete twelve months.

MALNUTRITION

The last nutritional inquiry made and published in Brazil was carried out in 1996. This inquiry gives information on the nutritional situation of children up to 60 months. There is information of a new inquiry, with data from 2000, ready to be officially presented, unfortunately, it is not available yet.

The 1996 inquiry offers data on how many children suffer of malnutrition and how severe it is, notably showing that 10.5% of Brazilians were malnourished that year.

The most recent data available comes from the Integrated Primary Care System (SIAB), collecting information from the Family Health Program (PSF) and the Community Health Agent Program (PACS). These two programs contributed largely to a better coverage and quality of primary care in the country, although it still does not reach the
desired extension\textsuperscript{54}, varying from a coverage a little above 3\% of the population in Brasilia, Bahia and Rio de Janeiro, to almost 50\% in the pioneer State of Ceará.

Because of this variation in coverage - and the number of the population reached - the statistics from these programs cannot be considered an exact portrait of reality. Even so, they do clearly point out the current situation, especially in the states in the North and Northeastern regions where the coverage is good. These are the two poorest regions in the country, where the rates of malnutrition and infant mortality continue the highest in Brazil.

Another important information is that statistics from the PSF/PACS programs only include children under two years of age (24 months), although the risk period and the international model for statistics on infant malnutrition goes to five years of age (60 months). It is also noteworthy that the health care politics and primary care system are divided into two parts: programs for children under one year of age focused on the reduction of infant mortality and programs for children up to five years of age, whose death is not considered infant mortality. Due to this, the statistics that show the nutritional state of children up to two years of age include a period where there is a series of governmental programs and projects related to the well-being and survival of these children (the period up to twelve months), and another period where there are few programs and projects and they are not a priority (the period between twelve and 24 months).

\begin{tabular}{lcc}
% Malnourished children per year per region  
Period: June/2000 & \\
\hline
Region & 2000 & Total \\
\hline
TOTAL & 10,78 & 10,78 \\
Region North & 8,67 & 8,67 \\
Region Northeast & 13,14 & 13,14 \\
Region Southeast & 7,94 & 7,94 \\
Region South & 6,72 & 6,72 \\
Region Mid-West & 5,94 & 5,94 \\
\hline
\end{tabular}

\textsuperscript{54} See annex IV
A closer examination of this table shows that there are states in the Northeastern region that present rates of up to 17% infant malnutrition, which is the case in Alagoas. A closer look at malnutrition in the municipalities in the State of Ceará, still in the Northeast, where the PSF program covers 47% of the population, shows various municipalities with malnutrition rates among children (12-24 months old) above 25%, i.e., In many municipalities in Ceará, which has an average rate of malnutrition of 12.99%, one out of every four children is malnourished. In some municipalities, more than 35% of the children in this age group are malnourished and, in the municipality of Ararendá half of the population between one and two years of age presents a low weight in relation to their age. Although it is impossible to deny the reduction in malnutrition among children up to one year of age, these numbers show that children tend to be malnourished after this phase, when they had benefited from a high level of investment in health care. The majority of cases show a significant percentile increase of malnutrition when they pass from 0-12 months to the 12-24 months phase.

The situation in Ceará is not different from that of other states in the Northeast. There was an important and well-succeeded investment to reduce infant mortality, but, as many professionals and non-governmental organizations have tried to show, children survive to die later on, often from hunger.

FINAL CONSIDERATIONS

In spite of the existing legal system, presented in the beginning of this chapter, and large investments to reduce infant mortality, many children in Brazil still suffer from malnutrition or die from lack of food in sufficient quantities or adequate quality, as one can confirm in the statistics presented above. It is immoral that in a country with a considerable gross national product and eight million hectares of agricultural land, there is at least one municipality where 50% of the children are malnourished.

Malnutrition is commonly passed on from generation to generation, because malnourished women give birth to weak children who will have problems in their physical and mental development, if the necessary measures are not taken before they are born. After live birth, exclusive breast-feeding is a central part of good and healthy development. The Brazilian government has made efforts in pregnancy care and the period up to twelve
months of age, as affirmed above, but it is necessary not to abandon this investment after that period, otherwise, all it will have been useless.

**RECOMMENDATIONS**

- Increased investment in child nutrition programs, with emphasis on the period between twelve and sixty months;
- Investments in a program to combat infant mortality;
- Investment to improve the quality and quantity of food of the population in general, including pregnant women;
- Investment in exclusive breast-feeding campaigns;
- Investment in programs to create employment and income to guarantee quality of life for families.

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55 According to the Pan American Health Organization, there are evidences that the weight of newborn babies, a determinate for the health, growth and later development of the children is intimately dependent on the nutritional state of the mother. In FRANCESCHINI et allé.
3. REPORT ON THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD - RIGHT TO EDUCATION

CONSTITUTIONAL AND LEGAL ASPECTS

The 1988 Brazilian Federal Constitution (CF88) cited education as a “(...) right for all and duty of the State and the family (...)” (Art.205), including the right to fundamental schooling, even for those who did not have access at the right age; intermediate level; nursery school; pre-school and higher level. The first two levels are compulsory, although this characteristic would be progressively implanted for the intermediate level. The CF88 also guaranteed access to special education for children and adolescents with special learning needs, and supplementary programs for school material, transport, meals and health care at the fundamental level. 18% of the income from federal taxes and 25% from the state and municipal levels were directly linked to this purpose.

The Statute for the Child and Adolescent (ECA) repeats the constitutional mechanisms regarding the duty to educate and includes fundamental aspects regarding the recognition of children and adolescents as subjects with rights. Certain rights, as the right to “(...) be respected by the teachers (...) and question criteria of evaluation (...)” (Art.53) are recognized. After the ECA, the law also states that the school has to be located near the pupils’ residences.

But only with the constitutional and legal reform of 1996, the educational politics have begun to be implemented in the country. The principal strategy is mass provision of fundamental schooling, without applying new resources, even if this means deterioration in the quality and other levels of education. The Constitutional Amendment n°14 inaugurates this phase. The progressive extension of the compulsory education, that should mean 11 years of schooling, has been abandoned and the obligation is restricted to 8 years of regular fundamental education. This constitutional retreat represents the return to the situation established by law n° 5698, 1971, that was passed under pressure from the international community that demanded an extension of compulsory schooling. This reform guarantees that most of the state and municipal budgets will be destined to regular fundamental education, through a mechanism of sub-linkage, 60% of the costs of the education. The Federal Government shall complement these resources and play a redistributive role.

Rosa María Torres analyses the stage of fulfilment of the tasks accepted at the World Conference of Education for All (Jomtien, 1990), and affirms: “education for all was
The central mechanism for the execution of the new politics is the Fund for the Maintenance and Development of Fundamental Schooling and to Value Teachers – Fundef, created by law n° 9.424/1996. It is a fund for the re-distribution of the costs that are sub-linked to fundamental education in every state and uses a minimum annual cost per pupil as a reference that was established nationally. In the states where this sum was not reached with their own resources, the Federal Government enters with the rest. Besides the intention to universalise regular fundamental education, Fundef aims to confront the enormous regional inequalities in the access to and quality of education at this level. This objective was not reached, however, as the Federal Government did not follow the legal determinations but established lower annual minimum values, and even so accumulated a R$12,7 billion debt to the poorest states by the end of 2002.

But, it is the new Law of Guidelines and Bases for National Education – LDB (Law n° 9.394/1996) that gives the legal structure to the new education policy. It organises school education in two levels: basic education, including infant education (nursery school and pre-school), fundamental and intermediate education; and higher education, distributing the competences of every level. It establishes the need to define minimum quality standards, student censuses, and evaluation of the teaching and constitution of the municipal and state systems of education, with their corresponding ten-year-plans. Regarding teacher’s qualifications, the law states that only those teachers with superior level or the equivalent will be admitted after the year 2007. Finally, the law determines that a National Plan of Education - PNE (Law n° 10.172) for the years 2001 to 2011 should be presented to the Congress to establish the quantitative goals for the implementation of the right to education, to which the future budget outlines will be attached.

The central Government once again shows, through concrete actions, its determination to stop any increase in education costs. It has vetoed nine articles in the PNE, arguing that they are incompatible with the targets of fiscal adjustment. The most significant of the vetoed articles was precisely the one that the civil society and specialists considered as the minimum requirement for the execution of the PNE – the progressive application of at least 7% of the Gross National Product (GNP) in education.

In spite of the impact of Fundef in various municipalities, the constitution of the local and state systems and education plans are still being implemented. A big challenge for civil society is to request a democratic construction of these processes, that takes into

account the real interests of the school community, overcomes regional inequalities and increases spending on education. Throughout the recent reform process the social actors, no matter how involved and capable they were, almost always found themselves absolutely distanced from the decision processes. The current LDB and the PNE lose out to proposals historically constructed by those who organize themselves in defence of public education in the country.

Through the advances and retreats in the legal formulations we perceive that putting the right to education into practise in Brazil involves complex and apparently contradictory movements. At the same time as the access to fundamental education was extended, admittance to pre-school stayed practically the same. As more persons conclude fundamental schooling, less will have access to an education with quality. While 97% of the children between 7 and 14 years of age were enrolled in fundamental education (MEC/Inep, 2002), only 2.79% and 10.29% of those who concluded reached the adequate knowledge of mathematics and Portuguese, respectively (MEC/Inep, 2001). In this context, we can see how the public resources for education, in real terms, have decreased during recent federal budgets.

INFANT EDUCATION (NURSERY SCHOOL AND PRE-SCHOOL)

The first phase of basic education in the current Brazilian educational structure is infant education, which consists of nursery school (0 to 3 years of age) and pre-school (4 to 6 years of age). These levels should be inserted in the rest of the educational system and follow the requirements of curricular parameters, including control, certification and qualified staff.

These requirements brought significant modifications principally to infant education in nursery schools. Historically, the nursery schools were linked to social assistance, and so basically cared for the health and nutrition of the children, while their parents were out at work. But, in spite of 1999 being the final deadline that the LDB established for the inclusion of nursery schools in the school system, this process is still going on. A good part of the municipalities and states still offer the two types of nursery schools or they do not recognise the difference between the systems. Because of this the statistics on the services offered to young children are unreliable. We know that there are more children in
nursery schools than appear in the school census, but there is no guarantee that they receive education, since there is no control of these establishments by the system.

The LDB accelerated the municipalization of infant education and significantly reduced state participation at this level. In 2002, the municipal network represented 60.6% of the initial enrolments in nursery school and 68.4% in pre-school. Private schools represented 37.8% and 25.5% of the children in nursery school and pre-school, respectively. A significant advance, that cannot be forgotten, is the constitutional recognition of the children's right to education during the first years in life (CF/88, art.208, IV). Although it is not part of compulsory education, it is a subjective right; it should be available for all who are interested. The PNE itself recognizes that infant education is essential, because of its determining influence on the educational process as a whole. It also recognizes that it is at this level that investment has its largest qualitative result. Thus, this is an official recognition that education at this level can have a determining influence in critical learning among students at later levels. This, though, was not the chosen path. Fundef set in motion a race for fundamental education, while the number of pre-school enrolment grew slowly and the alphabetisation classes (preparatory for fundamental school, for children between six and seven years old) saw a significant reduction.


<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nursery school</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>381.804</td>
<td>916.864</td>
<td>1.152.511</td>
</tr>
<tr>
<td>Pre-school (A)</td>
<td>3.628.285</td>
<td>4.270.376</td>
<td>4.111.120</td>
<td>4.421.332</td>
<td>4.977.847</td>
<td></td>
</tr>
<tr>
<td>Alphabetisation (B)</td>
<td>1.655.609</td>
<td>5.676.279</td>
<td>1.443.927</td>
<td>806.288</td>
<td>674.044</td>
<td>607.815</td>
</tr>
<tr>
<td>(A+B)</td>
<td>5.283.894</td>
<td>5.676.279</td>
<td>5.714.303</td>
<td>4.917.408</td>
<td>5.095.376</td>
<td>5.585.662</td>
</tr>
</tbody>
</table>

Source: MEC/INEP

* In 1994, the numbers from pre-school were collected together with the figures from the alphabetisation classes.

As we have seen, there uncertainty about official statistics related to nursery schools. They mainly show a growing inclusion in establishments that already existed in the re-census, but make it impossible to find out to what point a larger quantity of children were having access. In 1998, the census counted 10.519 nursery schools in the country; in 2000 this number was almost the double, 20.917; and in 2002 26.832 establishments were counted. One concern that is constantly being raised by the institutions of civil society is to what point the inclusion of these nursery schools in the re-census really represents that they have been regulated within the educational system.
At the pre-school level, the statistics on enrolment are more representative. Following a growth of 17.7% during the beginning of the decade (1991/1996), there was slight decrease just after the implementation of Fundef, and only in the year 2000 the number began to grow again. If we take into account the first six years of the Decade of Education, that started in 1997, the growth during this period was 16.57%. In the alphabetisation classes, though, there is a continuous decrease in the number of enrolments, reaching 63.29% between 1991 and 2002. In general, joining the numbers from pre-school and alphabetisation classes, a real stagnation in the number of vacancies can be seen, principally from 1996 onward.

The rates of infant schooling are low. Of 23,125,327 children between 0 and 6 years of age, only 32.09% go to school. (IBGE – Demographic Census of 2000). The most critical group is the population up to 3 years of age that needs to go to nursery schools. Their rate of schooling is very low: 9.43%. At the other extreme, we find the six-year-old children where 81.74% go to school, of these almost 1/3 are enrolled in fundamental education, as permitted by the LDB. Significant efforts should be made to reach the modest goals of coverage established in the PNE: 50% of the population up to 3 years of age and 80% of the population between 4 and 5, by the year of 2011.

### Resident population that frequents school, 0-6 years of age, According to school level or modality – 2000

<table>
<thead>
<tr>
<th></th>
<th>Up to 6 years</th>
<th>Up to 3 years</th>
<th>4 years</th>
<th>5 years</th>
<th>6 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total population</td>
<td>23 125 327</td>
<td>13 035 007</td>
<td>3 351 232</td>
<td>3 427 516</td>
<td>3 311 502</td>
</tr>
<tr>
<td>Population that goes to school</td>
<td>1 229 133</td>
<td>1 375 149</td>
<td>2 109 535</td>
<td>2 706 851</td>
<td></td>
</tr>
<tr>
<td>Nursery school</td>
<td>790 035</td>
<td>324 236</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pre-school</td>
<td>439 098</td>
<td>962 940</td>
<td>1 649 808</td>
<td>1 287 529</td>
<td></td>
</tr>
<tr>
<td>Alphabetisation class</td>
<td></td>
<td>87 973</td>
<td>231 444</td>
<td>452 359</td>
<td></td>
</tr>
<tr>
<td>Fundamental education</td>
<td></td>
<td>228 282</td>
<td>966 963</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Average (%)</strong></td>
<td><strong>32.09</strong></td>
<td><strong>9.43</strong></td>
<td><strong>41.03</strong></td>
<td><strong>61.55</strong></td>
<td><strong>81.74</strong></td>
</tr>
</tbody>
</table>

Source: Population Census 2000 - IBGE
There is a prevalence of white children in nursery schools and pre-schools, representing 57.75% and 51.35% of the total, respectively. Meanwhile, 5.06% of enrolments in nursery schools and 5.01% in pre-schools are by black children and 35.88% and 42.16% are the equivalent numbers for colored children. When it comes to the population between 4 and 6 years of age that does not go to nursery school, pre-school or school the statistics are the following: 36.1% of white children are in this situation, compared to 41% among black and colored children. In terms of gender one can say that there is balance: boys have a slight advantage, but there are also more boys than girls in the total population at this age.

The picture of educational exclusion is alarming, when the schooling rate of the population between 0 and 6 years of age is examined, in relation to family income. The poorest are also the most excluded group. While 59.29% of children from families with a nominal monthly income above five (5) minimum salaries frequent nursery schools, pre-schools and schools, children of families with no fixed income, or less than half a minimum wage per capita have schooling rates of only 21.47% and 27.18%, respectively (IBGE, Demographic Census, 2000).

Hereby it can be seen that the exclusive segmentation of the Brazilian educational system has its roots in the first years of school. The overwhelming majority of children with a low family income, without access to nursery school or pre-school, will become adolescents that, even after eight years of compulsory fundamental education, will have critical learning disabilities and be true functional illiterates facing contemporary demands and potential. They will also be excluded from the productive system and the far-off possibilities of entering higher education. This is how the exclusion cycle is closed.

FUNDAMENTAL EDUCATION – ACCESS AND STUDYING RESULTS

It is in fundamental education that the major contradictions in the educational system are expressed. It is also at this level that the regional and social differences become deeper. The mass provision of fundamental education, with general access for the population between 7 and 14 years of age and the implementation of Fundef, brought higher rates of approval for transfer to the intermediate level, less distortion between age and grade and professional qualification for the teachers. Simultaneously, in the public school network there was a significant drop in terms of quality of teaching and progress in the syllabus. Increased demand without a corresponding increase in financial resources,
rising numbers of unemployed and excluded persons, child labour and low rates of access to infant education are frequently pointed to as the reasons for the growing distance from the education objectives consecrated by the Convention.

From 1991 to 2000 there was a growth of 22.31% in the number of enrolments to fundamental education, reaching 35,717,948 students in 2000. After that, with higher numbers of progression and transfer, there is a drop in the numbers of enrolments, reaching 35,150,360 students at this level in 2002. There is still a decreasing trend for the first years of fundamental education (1st to 4th grade), while there is an increase in the final grades (5th to 8th).


<table>
<thead>
<tr>
<th>Country/Region</th>
<th>1991</th>
<th>2000</th>
<th>Variation (%)</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>29,203,724</td>
<td>35,717,948</td>
<td>22.31</td>
<td>35,150,362</td>
</tr>
<tr>
<td>North</td>
<td>2,246,339</td>
<td>3,273,693</td>
<td>45.73</td>
<td>3,320,488</td>
</tr>
<tr>
<td>Northeast</td>
<td>8,650,474</td>
<td>12,509,126</td>
<td>44.61</td>
<td>12,323,338</td>
</tr>
<tr>
<td>Southeast</td>
<td>11,965,480</td>
<td>12,936,313</td>
<td>8.11</td>
<td>12,571,486</td>
</tr>
<tr>
<td>South</td>
<td>4,201,369</td>
<td>4,416,528</td>
<td>5.12</td>
<td>4,372,890</td>
</tr>
<tr>
<td>Mid-West</td>
<td>2,140,062</td>
<td>2,582,288</td>
<td>20.66</td>
<td>2,562,160</td>
</tr>
</tbody>
</table>

Source: MEC/INEP

The increased access occurred, basically, in the North (45.73%) and North-eastern (44.61%) region, where the definition of a national minimum value per student lead to a true race for enrolments and, consequently, more resources. In general, the fast increase in the number of enrolments was not accompanied by public investments to build new schools. Rented annex buildings became the solution to meet the growing demand. At the moment, due to depreciation of the annual value, the Fundef is maintained basically with resources from the states, which has brought serious difficulties especially in the regions where the increase was significant. In 2003, only four states received resources from the federal Government through this fund: Alagoas, Bahia, Maranhão and Piauí.

An important indicator of the structural deficiency of the school system is the quantity of pedagogical equipment available to students. The lack of libraries and science laboratories is still large in the country, but it is in the North and Northeast that the situation is most critical. The figures from 2001 indicate that 55.6% of Brazilian fundamental
education schools possess libraries, but only 19.2% have a laboratory for science lessons. In the Northeast, the number of schools with a library falls to 35.2% and with a laboratory 5.9%. In the North the coverage is 43.1% and 4.5%, respectively. The Southern region presents quite a different reality, where a large majority of the schools have a library - 83.4% and 39.5% have a science laboratory.

The increased supply raised the rate of children that go to school, principally among the population between 7 and 14 years of age, but we are still far from universal access. The last demographic census pointed out that 1,495,643 children do not go to school (IBGE, 2000), which corresponds to 5.50% of the population in this age group. Even with a significant growth in access to school during the last decade, the North and Northeastern regions together concentrate 59.82% of the children that are excluded from fundamental education. Here, the huge Brazilian disparities are clearly manifested. We live with two antagonistic realities: while São Paulo (Southeast) and Rio Grande do Sul (South) are becoming similar to developed countries, with rates of 3.21% and 2.71%, respectively for students between 7 and 14 years old, states like Amazonas, Acre (both in the North) and Alagoas (Northeast) are far-off, with rates of 16.81%, 16.03% and 10.93% respectively.

Population between 7 and 14 years that do not go to school in relation to the total – Brazil and Regions

<table>
<thead>
<tr>
<th>Region</th>
<th>Population (7 to 14 years)</th>
<th>Nº children who do not go to school</th>
<th>Children who do not go to school (%)</th>
<th>Regional participation in relation to the Brazilian population of 7 - 14 years who do not go to school (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>27,188,217</td>
<td>1,495,643</td>
<td>5.50</td>
<td>100.00</td>
</tr>
<tr>
<td>North</td>
<td>2,506,985</td>
<td>279,765</td>
<td>11.16</td>
<td>18.71</td>
</tr>
<tr>
<td>Northeast</td>
<td>8,615,463</td>
<td>614,861</td>
<td>7.14</td>
<td>41.11</td>
</tr>
<tr>
<td>Southeast</td>
<td>10,443,510</td>
<td>385,948</td>
<td>3.70</td>
<td>25.80</td>
</tr>
<tr>
<td>South</td>
<td>3,757,069</td>
<td>131,881</td>
<td>3.51</td>
<td>8.82</td>
</tr>
<tr>
<td>Mid-West</td>
<td>1,865,190</td>
<td>83,188</td>
<td>4.46</td>
<td>5.56</td>
</tr>
</tbody>
</table>


57 In the document Geography of Brazilian Education (2003), the INEP affirms that 96.4% of children and adolescents between 7 and 14 years of age were enrolled in school in 2000. The apparent discrepancy between this figure and the one given by the IBGE in the Population Census 2000 is the result of differences in the research object and the applied method: the INEP matches the information from the Population Census
On a national level, the rate of children and adolescents between 7 and 14 years of age who do not go to school is higher among males – 5.85%, compared to 5.15% for females. It is also higher among the black and colored population – 6.9%, compared to the white population in this age group – 3.8%. But it is in relation to family income that the exclusion from education gains the structural characteristics that reproduce Brazil's historical inequalities. Ironically, the poorest are the most excluded. While only 1.2% of the richest 1/5 of children between 7 and 14 years of age do not frequent school, this figure rises to an alarming 9.2% among the poorest 1/5 of the population (IBGE, Demographic Census 2000).

Various policies were adopted during the last decade to correct this tendency, which managed to improve school results, with a decrease in those repeating a year or dropping out. The distortion between age and grade in fundamental education also decreased, from 64.1% in 1991 to 41.7% in 2000 (MEC/INEP, 2003). Even so, a significant share of students in regular fundamental education are not the proper age for that level: the gross rate of schooling (the relation between the number of enrolments at a particular level and the population with the proper age for it) in fundamental education is 130% (MEC/INEP, 2002). The profound regional inequalities in school progression persist, in spite of the advances. The statistics on drop out rates from school in the North, Northeast and Mid-West regions are still alarming.

Rates of approval, failure to pass the year and drop out from fundamental education - 1991/1996/2002

<table>
<thead>
<tr>
<th>Region/Year</th>
<th>1991</th>
<th>1996</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>63,6</td>
<td>18,1</td>
<td>18,3</td>
</tr>
<tr>
<td>North</td>
<td>58,6</td>
<td>19,4</td>
<td>22,0</td>
</tr>
<tr>
<td>Northeast</td>
<td>55,7</td>
<td>21,8</td>
<td>22,5</td>
</tr>
<tr>
<td>Southeast</td>
<td>70,0</td>
<td>17,2</td>
<td>12,8</td>
</tr>
<tr>
<td>South</td>
<td>65,0</td>
<td>13,3</td>
<td>21,7</td>
</tr>
<tr>
<td>Mid-West</td>
<td>65,9</td>
<td>16,9</td>
<td>17,2</td>
</tr>
</tbody>
</table>

Explications: Ap – Approval (%); FTP – Failure to pass the year (%); DO – Drop Out (%). Source: MEC/INEP.

FUNDAMENTAL EDUCATION – INEFFICIENCY IN THE LEARNING PROCESS

with the number of enrolments in a certain age group, while the IBGE counts the population that attended, did
The improvement of access to fundamental education, student’s results and teacher’s qualifications and salaries has not improved the efficiency of the teaching system. The democratisation of access was not accompanied by the democratisation of knowledge. The official statistics from the National System of Evaluation of Basic Education (Saeb) in fact show that mass provision lead to a drop in the learning process. The result of the evaluation of learning among final-year-students in fundamental education (8th grade) shows a frightening picture of massive violations of the Convention’s principles. The apparent advance regarding children and adolescent’s right to education comes up against a system that maintains and deepens unequal access to real opportunities.

Only 10,29% of final year students had reading abilities, compatible with the 8th grade. Almost a quarter of students were placed in the ‘critical’ or ‘very critical categories’, that is, at best they were compatible with the level expected for students in the 5th grade of fundamental education. In mathematics, the results were even worse. Almost all students – 97,21% - were below the appropriate level for leaving fundamental education, and more than half of them, 51,71%, were at a critical level (they had developed some elementary abilities in problem interpretation, but they could not transform the given information into a specific mathematical language). 6,65% of the students were at a very critical level (they did not manage to respond to elementary operational commands compatible to the 8th grade). In spite of the generally depressing picture, there are determining regional inequalities on this point, too. In the Northern and Northeastern region, the disaster in mathematics is close to total, as only 0,63% and 1,36%, respectively, reached the expected level.

**Percentage of pupils per stage in the construction of abilities in the Portuguese language – 8th grade – Saeb 2001 – Brazil and Regions**

<table>
<thead>
<tr>
<th>Stage</th>
<th>Brazil</th>
<th>North</th>
<th>Northeast</th>
<th>Southeast</th>
<th>South</th>
<th>Mid-West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very critical</td>
<td>4,86</td>
<td>4,06</td>
<td>7,30</td>
<td>4,58</td>
<td>2,47</td>
<td>2,96</td>
</tr>
<tr>
<td>Critical</td>
<td>20,08</td>
<td>22,69</td>
<td>26,27</td>
<td>18,19</td>
<td>13,60</td>
<td>18,98</td>
</tr>
<tr>
<td>Intermediate</td>
<td>64,76</td>
<td>67,98</td>
<td>60,61</td>
<td>64,02</td>
<td>71,39</td>
<td>69,48</td>
</tr>
<tr>
<td>Adequate</td>
<td>10,23</td>
<td>5,22</td>
<td>5,78</td>
<td>13,14</td>
<td>12,48</td>
<td>8,51</td>
</tr>
<tr>
<td>Advanced</td>
<td>0,06</td>
<td>0,05</td>
<td>0,05</td>
<td>0,07</td>
<td>0,06</td>
<td>0,07</td>
</tr>
<tr>
<td>Total</td>
<td>100,00</td>
<td>100,00</td>
<td>100,00</td>
<td>100,00</td>
<td>100,00</td>
<td>100,00</td>
</tr>
</tbody>
</table>

**Percentage of pupils per stage in the construction of abilities in Mathematics – 8th**

not attend and never had attended nursery school or school during the period of the Census.
The figures above also show that inefficiency is greater in public schools, which are responsible for almost 90% of enrolments in fundamental education. 98% of students in the very critical stage in Portuguese and Mathematics come from public schools. On the other hand, 55.64% of students with an adequate level in Portuguese come from the public school network, but in Mathematics this quantity does not reach 25%.

**Average Studying results in Portuguese and Mathematics in the 8th grade of Fundamental Education: Particular and Public schools – Brazil – 1995 to 2001**

<table>
<thead>
<tr>
<th>Year</th>
<th>1995</th>
<th>1997</th>
<th>1999</th>
<th>2001</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PORTUGUESE</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>283.0</td>
<td>286.5</td>
<td>270.6</td>
<td>282.0</td>
</tr>
<tr>
<td>Public</td>
<td>251.3</td>
<td>243.4</td>
<td>227.3</td>
<td>228.7</td>
</tr>
<tr>
<td><strong>MATHEMATICS</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private</td>
<td>292.8</td>
<td>300.6</td>
<td>293.7</td>
<td>301.1</td>
</tr>
<tr>
<td>Public</td>
<td>245.8</td>
<td>240.8</td>
<td>239.3</td>
<td>235.4</td>
</tr>
</tbody>
</table>

Furthermore, the projection of the average studying results between 1995 and 2001 shows a tendency towards growing segmentation in education. During the period, there was an improvement of the studying results from the private network (restricted to small shares of the population), while the public network presented a deterioration.

Child labor is another determining factor for studying results. Almost 27% of students in the 8th grade work (Saeb, 2001). Among the students with results classified as very critical in Portuguese, 68% declared that they are working. In Mathematics this figure was 59%. In general, the average studying results are significantly higher among the students who do not work.

**INTERMEDIATE EDUCATION AND ACCESS TO HIGHER EDUCATION**
The wider access to fundamental education created a pressure to increase vacancies for intermediate education. In fact, the number of enrolments grew most at this level – from 1991 (3,770,230 enrolments) to 2002 (8,710,584 enrolments) there was an increase of 131% (MEC/INEP). Because of the obstacles for progression through the education system, the majority of students at this level are adults. Only 33.3% of the population between 15 and 17 years of age was actually inscribed in intermediate education in 2000, while almost 50% where still at the fundamental level (MEC/INEP).

The latest Demographic Census (IBGE, 2000) shows a large number of adolescents between 15 and 17 years of age who do not frequent school – 2,391,112, which corresponds to 22.29% of the population in this age group. 77.75% of them have a monthly per capita family income under 1 (one) minimum salary.

Currently, state schools, except for 13% covered by private initiatives, offer almost all intermediate education in the country. The operational and financial priorities destined to fundamental education, together with economic difficulties among the majority of those teenagers, the lack of supplementary programs that really guarantee free education (school transport, uniforms, school books and meals) and the low quality of the education offered increase the number of drop outs from intermediate education all over the country – 16.7% (MEC/INEP). Even the most developed regions have high drop out figures: 13.9% in the Southeast (the lowest rate) and 21.2% in the North (the highest rate). The national average of repetition of the year in intermediate education is also significant, 18.6%.

There is, in fact, a general dispersion among these young people, most of whom reach the intermediate level without the knowledge required to follow the syllabus adequately. The lack of opportunity for students from public schools to enter public universities, together with the need to survive and the lack of state incentives, tend to make them leave the school system. There is currently a movement that blames the “elitism of academic knowledge” of the public universities, claiming they make it difficult for students from public schools to enter. If there is elitism in the access to higher education it is due to the profound segmentation created in basic education, between those who have sufficient income (to afford good quality private schools) to learn what the curricular

58 In the document Geography of Brazilian Education (2003), the INEP affirms that 83% of adolescents between 15 and 17 years of age were enrolled in school in 2000. The apparent divergence between this figure and the one given by the IBGE in the 2000 Population Census is the result of differences in the research objectives and the method applied: the INEP matches the information from the Population Census with the number of enrolments in a certain age group, while the IBGE counts the population that frequented, did not frequent and never had frequented kinder-garten or school during the period of the Census.
parameters establish (these are so few that they barely influence the overall results of the
tests that check learning levels), and the immense mass that attends public school - or
does not go to school at all – who do not acquire the appropriate knowledge for their age,
and consequently are obstructed in their full human and professional development.

The information from Saeb (2001) on final year students in intermediate education
reaffirms the inefficiency of the Brazilian school education. Only 5.99% of the students of
the 3rd (and last) year of intermediate education possess adequate abilities in
mathematics. The large majority, 29.29% and 38.15%, respectively, know little more than
what is demanded in the 8th grade of fundamental education or do not even reach that
stage. In Portuguese, there is a similar failure – only 5.35% of pre-graduate students reach
the adequate level of knowledge corresponding to intermediate education. 20.43% of
these students possess a reasonable reading capacity, but still lower than expected. And
in the extreme case of exclusion, 41.13% of final year students possess abilities in
Portuguese that are not compatible with the intermediate level and 32.11%, who have
more consolidated abilities but are still incapable of any critical reading.

SPECIAL EDUCATION AND ACCESS FOR PERSONS WITH DISABILITIES

According to the Brazilian legal system, children and adolescents with special
educational needs have the right to education, preferentially in public schools, in
coherence with the principle of no segregation. When we call an educational modality
“special”, we do not just refer to certain physical and pedagogic conditions that might be
necessary for some students, as educational rights and duties include all citizens.
Children and adolescents with permanent mobility problems usually do not demand a
special modality, just adequate access conditions. Here, the educational exclusion
depens, because of the small supply of special education, the lack of pedagogical
resources and the architectonic and cultural barriers that hinder or impede access for this
population.

The official statistics, in spite of not being very exact because they do not make
difference between the population that really needs a special education and those who
could be included in the regular system, point towards low levels of access and confirm the
segregationist character of public political policies. The majority of children with special

59 Excluding persons whose family situation was: house maid, relative of a house maid or receiving a pension.
educational needs\textsuperscript{60} study in exclusive establishments or special classrooms within schools. The 2002 School Census (MEC/INEP) counted 337,897 initial enrolments in special education: 259,544 (76,81\%) in exclusive establishments and 78,353 (23,19\%) in special classrooms. 110,704 students were integrated in ordinary classrooms, according to the same census, but 55,74\% of them did not have access to special pedagogical resources. Furthermore, 28,4\% of their teachers did not have special training for special needs education.

Another noteworthy statistic is the prevalence of private schools in this area: they receive more than 60\% of enrolments. Many of these schools are maintained by public resources passed on by the Governments. This fact has been discussed by civil society in the area, as the current precedent goes against the principle of inclusion of these persons in the public education network. It is not our intention to condemn the work of the private institutions (charities, philanthropic or community organizations) that are responsible for the maintenance of this service today, but to affirm that a truly inclusive political policy demands investment priorities to adapt the physical space of public schools and qualify their personnel and pedagogical equipment.

In this area, there is still a real vacuum when it comes to access. Out of 6,795 registered special education establishments (MEC/INEP, 2002 School Census), only 2,317 were linked to the municipal networks, which shows that the majority of the more than 5000 Brazilian municipalities do not even offer this type of education.

The statistics from the Demographic Census (IBGE, 2000) give more details, principally regarding the type of disability in relation to the percentage that frequent school. In general, the number of disabled children and adolescents that frequent school is lower than among the rest of the population, even when they do not require special education. The impacts of the policy to give priority to fundamental education can also be perceived in this area: the highest numbers of children and adolescents in special education are concentrated to the age groups 7 - 9 years of age (88,82\%) and 10 - 14 years of age (88,55\%), that is, below the national average of 96,4\%.

\textsuperscript{60} Special educational necessities includes all students, disabled or not, that demand special education; in special establishments, special classrooms in regular schools or integrated in regular classrooms.
Children and adolescents with disabilities, in total and attendance in nursery school or school – Brazil, 2000

<table>
<thead>
<tr>
<th>Age group</th>
<th>At least one disease</th>
<th>Permanent mental disability</th>
<th>Permanent tetraplegia, paraplegia or hemiplegia</th>
<th>Missing limbs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>In nursery school or school</td>
<td>Total</td>
<td>In nursery school or school</td>
</tr>
<tr>
<td>0 - 4</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>370 530</td>
<td>56 922 (15.36%)</td>
<td>104 048</td>
<td>16 376</td>
</tr>
<tr>
<td>5 - 6</td>
<td>216 499</td>
<td>150 398 (69.47%)</td>
<td>57 698</td>
<td>30 227</td>
</tr>
<tr>
<td>7 - 9</td>
<td>491 265</td>
<td>436 348 (88.82%)</td>
<td>102 272</td>
<td>67 988</td>
</tr>
<tr>
<td>10 - 14</td>
<td>1083039</td>
<td>958 992 (88.55%)</td>
<td>218 007</td>
<td>144 839</td>
</tr>
<tr>
<td>15 - 17</td>
<td>689 272</td>
<td>492 097 (71.39%)</td>
<td>135 855</td>
<td>66 017</td>
</tr>
<tr>
<td>Total</td>
<td>2 850 604</td>
<td>2 094 757</td>
<td>617 880</td>
<td>325 448</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Age group</th>
<th>With some or serious permanent visual disability</th>
<th>With some or serious permanent hearing difficulty</th>
<th>With some or serious permanent difficulty to walk or climb stairs</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>In nursery school or school</td>
<td>Total</td>
</tr>
<tr>
<td>0 - 4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>93 792</td>
<td>22 090</td>
<td>49 139</td>
</tr>
<tr>
<td>5 - 6</td>
<td>100 783</td>
<td>76 737</td>
<td>51 930</td>
</tr>
<tr>
<td>7 - 9</td>
<td>292 247</td>
<td>273 807</td>
<td>104 297</td>
</tr>
<tr>
<td>10 - 14</td>
<td>686 833</td>
<td>639 747</td>
<td>201 222</td>
</tr>
<tr>
<td>15 - 17</td>
<td>440 565</td>
<td>337 990</td>
<td>112 872</td>
</tr>
<tr>
<td>Total</td>
<td>1 614 220</td>
<td>1 350 371</td>
<td>519 460</td>
</tr>
</tbody>
</table>

Source: IBGE. Demographic Census 2000.

The above statistics show where exclusion occurs and the explanation for it. Children with visual or hearing disabilities or with a missing limbs frequent school to a higher extent than children with mobility problems. On the other hand, the attendance of children with permanent mental disabilities is low, and this confirms the lack of access to special education, as this group is the one that has the highest requirements for specialized pedagogical resources. The attendance of children and adolescents with some or serious mobility difficulties is even lower, in general they do not need special education but they are excluded by architectonic barriers in the school or on their way there. Attendance is also low for this group in fundamental education: 68,31% in the age group 7-

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61 The statistics from the IBGE include all children and adolescents that frequented school during the set period, independently of if they are or not linked to special education.
9 years old and 71.29% between 10 and 14 years of age. The figures also indicate that attendance is significantly low for persons with paralysis (tetraplegia, paraplegia and hemiplegia), but a lack of specific information hinders a closer analysis of the reasons, beyond the architectonic barriers that we already mentioned.

**QUALIFICATION AND VALORISATION OF BASIC EDUCATION TEACHERS**

The qualification and valorisation of teachers are frequently seen as indicators of improvements in education, and, as a consequence of this, the efficiency of the system. Intriguing, then, that a drop in the quality of public education has accompanied the advance in teacher training in Brazil during recent years. This calls for a reflection as to whether teacher training really leads to qualification and what other factors result in the bad quality of education.

The LDB (1996) stated that by 2007, only professionals with higher education degrees will be employed, except for teachers who have already entered the education system. The law regulating Fundef sets the year of 2001 as the maximum deadline for teachers already working with infant education and the first grades of fundamental education (1st to 4th grade) to conclude at least intermediate education, whilst those who already teach the final grades of fundamental education (5th to 8th grade) and intermediate education should conclude higher studies.

Among the teachers working in the regular nursery schools in 2002, 14.7% had higher education degrees (more than 4/5 of these were concentrated to the South and South-eastern region), 71.3% had an intermediate level certificate and 14% had not reached the minimum level required by law: conclusion of fundamental education. 23.9% of teachers in rural schools in the Northeast were working under these conditions. At preschool level, more than 95% of teachers fulfilled the minimum requirements in 2002: 68.2% had concluded intermediate level and 27.4% had concluded higher education (INEP/MEC, School Census 2002).

Most Fundef resources for teacher training were concentrated in fundamental education. Even so, this level is in a difficult situation because the number of unqualified teachers in the upper grades (5th to 8th grade) is still very high – 24.9%, which reflects the insufficiency of investments, principally in the poorest regions of the country.
Fundamental Education: percentage of teachers per educational level – Brazil and Regions, 1991/1996/2002

### 1st to 4th grade

<table>
<thead>
<tr>
<th>Region/Year</th>
<th>1991</th>
<th>1996</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level</td>
<td>F</td>
<td>I</td>
<td>H</td>
</tr>
<tr>
<td>Brazil</td>
<td>17.4</td>
<td>63.4</td>
<td>19.2</td>
</tr>
<tr>
<td>North</td>
<td>39.3</td>
<td>57.5</td>
<td>3.2</td>
</tr>
<tr>
<td>Northeast</td>
<td>31.8</td>
<td>62.1</td>
<td>6.1</td>
</tr>
<tr>
<td>Southeast</td>
<td>3.6</td>
<td>67.5</td>
<td>28.9</td>
</tr>
<tr>
<td>South</td>
<td>8.9</td>
<td>59.5</td>
<td>31.6</td>
</tr>
<tr>
<td>Mid-West</td>
<td>17.3</td>
<td>63.8</td>
<td>18.9</td>
</tr>
</tbody>
</table>

### 5th to 8th grade

<table>
<thead>
<tr>
<th>Region/Year</th>
<th>1991</th>
<th>1996</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level</td>
<td>F</td>
<td>I</td>
<td>H</td>
</tr>
<tr>
<td>Brazil</td>
<td>0.8</td>
<td>25.4</td>
<td>73.8</td>
</tr>
<tr>
<td>North</td>
<td>1.8</td>
<td>53.8</td>
<td>44.4</td>
</tr>
<tr>
<td>Northeast</td>
<td>1.5</td>
<td>49.5</td>
<td>49.0</td>
</tr>
<tr>
<td>Southeast</td>
<td>0.3</td>
<td>13.9</td>
<td>85.8</td>
</tr>
<tr>
<td>South</td>
<td>0.8</td>
<td>17.0</td>
<td>82.2</td>
</tr>
<tr>
<td>Mid-West</td>
<td>1.4</td>
<td>32.5</td>
<td>66.1</td>
</tr>
</tbody>
</table>


The small and slow advance in the final grades of fundamental education is explained by the migration of some teachers with higher education to intermediate education, where in general salaries are higher. But even so, more than 10% of teachers at the intermediate level did not have the appropriate qualifications in 2002.


### Intermediate education

<table>
<thead>
<tr>
<th>Region/Year</th>
<th>1991</th>
<th>1996</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level</td>
<td>F</td>
<td>I</td>
<td>H</td>
</tr>
<tr>
<td>Brazil</td>
<td>0.3</td>
<td>16.2</td>
<td>83.5</td>
</tr>
<tr>
<td>North</td>
<td>0.4</td>
<td>28.2</td>
<td>71.4</td>
</tr>
<tr>
<td>Northeast</td>
<td>0.8</td>
<td>31.8</td>
<td>67.4</td>
</tr>
<tr>
<td>Southeast</td>
<td>0.3</td>
<td>10.2</td>
<td>89.5</td>
</tr>
<tr>
<td>South</td>
<td>0.2</td>
<td>9.5</td>
<td>90.3</td>
</tr>
<tr>
<td>Mid-West</td>
<td>0.5</td>
<td>22.4</td>
<td>77.1</td>
</tr>
</tbody>
</table>


50
FINANCING

Many of the violations presented in this document are results of the overall decrease of resources destined to public education. The current costs for maintenance and development of the educational system are close to 4.3% of the Gross National Product – GNP. In 1998 these costs represented 5.2%. On the other hand, studies elaborated by the Ministry of Education (MEC) itself estimate that increased investments will be necessary to reach the qualitative and quantitative goals set up in the PNE – reaching 5.75% of the GNP in 2006 and 7.95% in 2011 (the last year of the Plan). But the Presidency of the Republic vetoed nine of its articles, among them the article that makes an increase of the investments up to 7% of the GNP possible. Contrary to the expectations built up around the approval of the PNE in 2000 in the name of fiscal adjustment the plan was turned into a mere “letter of intent”.

In fact, the trajectory of our educational policies has shown that even legal and constitutional determinations often are ineffective in controlling the ruler’s actions. Although the creation of Fundef did not bring new resources to public education it is the fact that it has not subsequently been followed that has impeded effective advances in overcoming regional inequalities. This also makes it impossible to establish a value/student/year to guarantee minimum standards of quality and real education for children and adolescents, beyond just having access. Documents from the Ministry of Education (MEC), the Federal Audit Court and the Attourney General’s Office show that there is a growing discrepancy between what should be the legal value per student from Fundef and the value established by the Federal Government. The legal value in 2002 should have been R$ 706.35, but only R$ 418.00 was decreed, a difference of 40.82%. In 1998 the discrepancy was 21.14%. The immediate consequence of this is that many states with low educational coverage and precarious school structures have not received Federal resources. The accumulated debt was R$ 12.7 billion by 2002 – the equivalent to a year’s federal budget for education.

Thus we can conclude that the mechanisms for financing public education in Brazil, above all the Fundef, work against the progressive implementation of the principle of equality, expressed in the Convention and accepted by our legislation. The state with the highest per capita value currently guarantees resources three times the national minimum value for its children with the fund.
One of the reasons for the persistence of these violations is related to the macro-economic policies of fiscal adjustment. The constitutional linkage of resources to maintenance and development of education itself has been victim of cost reduction and reduced investments in social areas. Mechanisms like the De-linkage of Federal Revenues – DRU, reduce the percentage of tax revenues destined to education and health and represent a flagrant disrespect of the 1988 Constitution and the principles of absolute priority for children and adolescents and the progressive implementation of their rights. In 2003 alone the forecast is that education will lose R$ 3.6 billion because of the DRU. Furthermore, there are proposals to reproduce the de-linkage of revenues at a state level as well, which potentially could remove R$ 7 billion from education in 2003.

Fiscal policy has also meant losses for education. Increases in the tax burden have not been reflected in more resources to maintain and develop education, because they were strategically made through mechanisms that are constitutionally immune to the linking of 18% on the federal level and 25% of the state and municipal level – basically the social and economic contributions. Specialists confirm that, while tax revenues and contributions increased 187% from 1995 to 2002, MEC´s spending grew only 84% during the same period.

In this context, it is not strange that the massive expansion of the enrolments in the fundamental and intermediate level has lead to a drop in the learning results. Whilst it is clear that schools do not only need financial resources, there is no way to establish acceptable quality standards without the necessary material and pedagogical resources. The critical situation can also be perceived if we compare our costs per pupil with the equivalent figures from other countries. In spite of the Fundef, the public average cost per student in fundamental education in Brazil is R$ 668,00, that is lower than countries like Malaysia (R$ 717) and Mexico (R$ 778). The regional disparities within the country are also stark in this case. While the Federal District (R$ 2,228) is getting close to South Korea (R$ 2,353) and Spain (R$ 2,548), states like Maranhão (R$ 401) and Goiás (R$ 442) have lower average costs than Paraguay (R$ 446). In intermediate education, the fast expansion without compatible investments left us with lower values compared to other countries. The average public cost per student on this level is R$ 701 – lower than in Paraguay (R$ 739)\textsuperscript{62}.

\textsuperscript{62} MEC/INEP, Geography of the Brazilian Education, 2002. All the figures of comparison of costs per student were extracted from this document.
RECOMMENDATIONS

1. Increase spending on education to at least 7% of the Gross National Product;
2. Recomposition and expansion of the constitutional linkage to education through the annulment of the Delinkage of Federal Revenues (DRU), the linkage of 25% in the states and municipalities and 18% on Federal level of social and economic revenues and the reintroduction of investments and spending on education among the goals of the primary superavit;
3. The creation of a national fund for financing basic education (nursery school, preschool, fundamental and intermediate level) that would offer conditions for expansion, improvements in quality and the reduction of the regional inequalities;
4. Annulment of the presidential vetoes of the National Plan for Education (PNE);
5. The creation of Councils for the Supervision and Social Control of resources destined to education, with wide participation from civil society, responsible for the control of educational spending and the approval of budget proposals to education before they are sent to the legislature;
6. The creation of an efficient, fast and reliable system to follow up educational spending at Federal, State and Municipal level;
7. Implementation of a national student-quality-cost at every educational level;
8. Fulfilment of the legal minimum value of the Fundef and compensation for the accumulated debt to the poorest states;
9. Improvement of the physical conditions and democratisation of the access to school equipment, with mass provision of libraries, sport facilities and science and computer science laboratories;
10. Access to special education in all municipalities in the federation, with priority for adapting regular public schools, with pedagogical resources and specifically trained teachers-professionals;
11. Adjustment of special education policies to the principles of inclusion, with budget priorities for access to students with special educational needs in adapted regular public schools, with pedagogical resources and specifically trained teachers-professionals and, when necessary, in special establishments;

Some of these recommendations are on the agenda of social movements defending education, such as the National Campaign for the Right to Education, which has argued in favour of increased public resources for this sector for years.
12. Organization of democratic and interlinked Conferences on Education at Municipal, State and Federal level, responsible for the evaluation of the implementation of the National Plan of Education and elaboration of the 10-year-plans on municipal and state level;

13. Elimination of all the architectonic barriers in or outside schools that impede or hinder the access of disabled children to school education;

14. Administrative and pedagogical adjustment of nursery schools to the education system and guaranteed continuance of this service;

15. Guarantee of completely free public education, including free school material, transport, meals, uniforms and health services (medical and dental) on every level;

16. Improvement of teacher’s qualifications, especially in the North, Northeast and Midwest regions, through higher education in institutions of recognized quality.
4. THE SITUATION OF ADOLESCENTS IN CONFLICT WITH THE LAW IN BRAZIL

ADAPTATION OF NATIONAL LEGISLATION

The consecration of the principle that childhood is a differentiated period in human life and what is more, one of special development, made Brazilian legislation stop treating adolescents in conflict with the law as mere objects of tutelary intervention from the state because of a failure to adapt to a social model, but instead made them recipients of integral protection of their rights, with absolute priority, by the authorities, family and society, as full citizens.

Based on this premise, the role of the Brazilian State is prominent, as it is responsible for the adequation of national legislation to the consacred standards of the ratified international agreement, for the formulation and execution of social policies and for establishing conditions for the legal defense of rights and individual and collective interests.

This means that Brazilian legislation opted for a model to deal with the adolescent offender that is in harmony with the principles inserted in articles 3, 37 e 40 of the Convention on the Rights of the Child.

Briefly, this model establishes penal unimputability for persons less than 18 years of age, who from 12 years of age onwards will be subject to a differentiated criminal justice system with an emphasis on socio-education.

This legal system defines an infraction as conduct described in law as a criminal or penal contravention liable to warnings, damage reparation, community service, assisted freedom, semi-freedom and internment. All of these, except for the warning, are applied through prior investigation of the responsibility for and materiality of the infraction in which is guaranteed, through the due process of law, processual contradiction and isonomy.

These measures constitute a rising scale and can be applied cumulatively with other protection measures (like enrolment in school, treatment of alcoholics, drug addicts, and others) as well as progress in closed or open administrations. Everything depends on the specific development conditions of the offender.

When it comes to a legal defense, it is important to make clear that the Statute for the Child and Adolescent only considers the presence of a lawyer absolutely necessary in the legal stage of proceedings, as there are earlier stages: the police (investigative) phase and
informal consultation with the presence of a representative from the prosecuting authority, when this body can sign a deal with the adolescent to apply remission\textsuperscript{64}, alone or in combination with socio-educative measures that do not deprive them of freedom. This creates a disadvantage in relation to authority, as the adolescent often accepts these measures, because he or she is afraid of receiving more severe measures if he or she does not accept the deal. There is, therefore, a flaw in our legislation (with the intention of speeding up the process) that opens up the possibility of adolescents serving measures without the due process of law.

**INSTITUTIONAL REARRANGEMENT**

One has to consider that the legal panorama presented above is not a gift from the constituted powers, but the result of legitimate pressure from social movements, fortified and reorganized since the re-democratization of Brazil from the 1980s onwards that demanded a new paradigm of childhood and procedures in its interests that would incorporate the ABSOLUTE PRIORITY proclaimed by art. 227 of the 1988 Federal Constitution, which corresponds to the principle of SUPERIOR INTEREST of the child, proclaimed in the Convention of the Rights of the Child.

When it comes to the advances in Brazilian legislation, emphasized by the Brazilian Government in its report to this Committee, the institutional model of application and execution of socio-educative measures in Brazil continue discordant with the ideal of respect for the adolescent offender.

Brazilian adolescents continue to be treated as a social pathology, young people in irregular situations, deprived of their elementary rights whilst it is the State that is irregular, it does not protect its children and is already well-known as world leader of social inequalities\textsuperscript{65}.

Therefore, new and advanced legislation is insufficient, it must be applied.

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\textsuperscript{64} The remission is a type of pardon, which does not mean the recognition of guilt of an infraction.

\textsuperscript{65} According to Ana Carolina Gitany and Rafael Pereira, Jornal do Brazil newspaper of July 9th, 2003, the Gini inequality index, Brazil is the sixth most unequal country in the world, only losing to Namibia, Botswana, Sierra Leone, Central African Republic and Swaziland, all in sub-Saharan Africa.
INTERNMENT MEASURES OF ADOLESCENTS IN BRAZIL

Special emphasis is given to the measure of deprivation of freedom, because of the weak official national statistics for non-custodial measures, which to a certain extent indicates the authority’s lack of interest in mapping the extent of implementation of the Convention in Brazil.

On the other hand, internment is the most serious of these exceptional measures; its application is intended for short periods of time only and in situations where other measures would be ineffective.

Research by the Applied Economic Research Institute (IPEA), between the months of September and November of 2002, concluded that during that period there were 9,555 adolescents deprived of their freedom in Brazil. It is a relatively low number considering that the National Research by Residential Sampling (PNAD) of the Brazilian Institute of Geography and Statistics (IBGE) counted a national population of 23.3 million adolescents during the decade 1992-2001. The main issue, though, is not the number of adolescent internees, but the real need and motive for depriving them of freedom and in what conditions this is being executed.

Among the internees, 76% were between 16 and 18 years old, 6% between 19 and 20 years old and 18% between 12 and 15 years old. It can be noted that the age group with the largest number of adolescents coincides with the peak of biological and psychological transformations. It is also the principal period when adolescents are searching for and constructing their identity, which explains that it is not a myth to believe that infractions are intrinsically part of offender’s personalities. In fact, these events occur at the most vulnerable point of human development, allowing us to look differently upon this segment.

Regarding gender, internees were predominantly male, only 6% of internees were females. This situation has an impact on the overcrowding in some units and the poor functional conditions.

Research also shows that 60% of these adolescents are from black ethnic groups, indicating the greater vulnerability of black population in a society where they are historically the most affected by social inequality.
Statistics from the IBGE show that the families of non-white adolescents are poorer in all income groups, for example: while approximately 40% of white adolescents have families with a monthly income above five minimum salaries, only 18% of non-white adolescents live in families with the same monthly income.

In relation to school attendance and occupation, 51% were not frequenting school at the time when they committed the infraction, 49% were not working and half of the internees had not concluded fundamental education, although the large majority – between 16 and 18 years old – should have been in or already have concluded the intermediate level.

Figures on family income show that 66% of the internees come from families with a monthly income varying between less than one and up to two minimum salaries, valid in Brazil at the time\(^{66}\). Even without information on per capita income, if it is assumed that the average Brazilian family consists of four persons, it can be concluded that this income is insufficient to guarantee basic needs.

A look at the domestic situation shows that 81% of adolescents lived with their families at the time when they committed the infraction. This information is important to refute the myth that in general offenders are street children or abandoned.

In relation to the use of drugs, 85.6% of the adolescents were already drug users before internment. The drugs mentioned most are marijuana (67.1%), alcohol (32.4%), cocaine/crack (31.3%) and solvents (22.6%).

When it comes to the physical structure and treatment at the units, overcrowding, abuse, torture, lack of staff training and an architectonic environment similar to adult prisons, are some of the conclusions of the research.

Contrary to assumptions, overcrowding of units is not the result of an exorbitant number of adolescents in conflict with the law (as has been shown), but of the violation of the principle of exceptionality. Deprivation of freedom has been applied without distinction, without considering the possibility of applying other non-custodial measures in open facilities with pedagogical functions.

Brazilian reality has shown an accentuated emphasis on the deprivation of freedom, principally of adolescents who commit crimes against property. This is also a strong indicator that judges are applying the measures of deprivation of freedom with the logic of penal retribution, which is inadmissible under the Convention on the Rights of the

\(^{66}\) The minimum salary in Brazil in September 2002 was R$ 220.00 (two hundred and twenty reais), approximately US $75.00.
Child: punishment as retribution for bad behavior, stigmatizing the offender and disrespecting his particular developmental situation.

The exceptional nature of this measure is also justified because the deprivation of freedom, in fact, complicates the exercise of some basic rights, as the adolescent has his or her daily routine altered. Contact with the family is disturbed, as internment centers are generally located in the capitals or main urban centers, which makes visits difficult for parents who live far away. It’s worth remembering that Brazil’s territorial extension is almost nine million square kilometers and the fact that there are only 190 units throughout the country, the majority of them in the southeastern region.

On this subject, Gabriel Chalita, State Secretary of Education in São Paulo, declared that between 30 and 40% of internees in his state could be maintained in assisted freedom\(^{67}\). Practically half of the Brazilian adolescents deprived of freedom are in the State of São Paulo: 4,429\(^{68}\)

The IPEA report includes the principal crimes committed by 70% of internees in São Paulo: 2,042 committed infractions against property. More specifically: 1,851 committed robbery\(^{69}\); 172 theft and only 19 practiced armed robbery (resulting in death). The number of internees who committed murder is only 287 and figures for rape are even less, 85.

This reality is not different from the rest of Brazil, where the report shows that the most common infractions are robbery (29.5%), murder (18.6%), theft (14.8%) and drug dealing (8.7%).

Although robbery, in theory, can lead to internment, given that art. 122 of the Statute established that infractions practiced with violence or serious threat against a person constitute the possibility to this measure, the same article concludes by establishing that internment will, under no circumstances, be applied if there is another adequate measure. Thus, the judge should always verify the existence of other measures before he checks whether the case fits the legal hypothesis of internment. The use of this measure for the almost 15% cases of theft is questionable.

According to research by IPEA, the preferred items of infractions attributed to adolescents are clothes, caps, trainers, watches, that is, goods that represent consumption status in the contemporary world.

\(^{67}\) Interview conceded to the newspaper Estado de São Paulo, August 15\(^{th}\)/2003.
\(^{68}\) Information found in table 06 in the IPEA report.
\(^{69}\) According to the definition in the Brazilian Penal Code, robbery is the subtraction of a mobile object that belongs to someone else, through violence or serious threat to a person, while theft is a simple subtraction.
It is also worth mentioning that, during preparatory proceedings, the judge can order a social study of the case, carried out by a multiprofessional team (psychologists, social workers, pedagogues, and others), to provide a better understanding of the social circumstances of the adolescent and the infraction. This is not routine, though, because it is not a legal obligation and the majority of the courts for adolescents do not have this service. The judge makes his decision based on his free analysis of the proofs presented during the process. Even if a social study exists, the judge can choose to ignore it completely. There is a lack of correspondence between the act committed and measures applied in every concrete case.

Overcrowding, a violation itself, makes it difficult or even impossible for the units to fulfill their pedagogical role. According to the IPEA, 71% of the 190 internment units of in Brazil do not reach the United Nation’s requirements for facilities for offenders. The main problems were the lack of space for leisure and sport activities and terrible conditions of hygiene and maintenance. The units that were considered adequate passed because they fulfilled security criteria but they did not have appropriate pedagogical proposals. Many of them have typically prison-like characteristics.

This does not mean that Brazil only needs to build more internment units, that might be a real need, but this is not the central issue. It is worth reflecting on the indiscriminate application of measures that deprive freedom in situations where other measures would be more effective and the pedagogical role that executors of socio-educative programs should adopt.

In relation to cases of abuse and torture, even the Brazilian Government recognizes this fact in its report to the Committee on The Rights of the Child, although euphemistically:

Anyway, even if it is not generalized, it is true that punishment sessions involving torture and beating exist in some establishments destined to apply socio-educative measures to adolescents in conflict with law. In some states in the federation, where there are strong indications of the practice of these acts, the Government suspends the employees under suspicion and, in certain cases, dismisses them. As it is very difficult to produce individualized evidence of crimes of this nature, the cases that lead to a criminal sentence are extremely rare.

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70 Resolution nº 46 from 1996 of the National Council For the Rights of the Child and Adolescent (CONANDA) state that internment units should have a maximum capacity for 40 adolescents. Obviously this was not a random number, but was set so that the units would have the conditions to fulfill the pedagogical requirements attributed to them.
A report from Human Rights Watch also concludes that abuse and torture of internees is a routine practice. It mentions an episode from April 5-6th 2002, when the military police, in order to stop an uprising at the Internment Center Espaço Recomeço in the State of Pará, left various persons injured, although it would have been possible to solve the conflict without violating the physical integrity of the internees. But violence has been an instrument of intimidation with widespread use in Brazil, as if it were educative.

This type of violation is so common that, in the State of Rio de Janeiro, adolescent offenders lie and say they are 18 to avoid going to socio-educative institutions appropriate for their real age, preferring to be taken to the adult penitentiary system, where the probability of being tortured seems smaller.71

Another point of indignation is the fact that the torturers - public servants with the duty of avoiding the situations that they themselves create – are not made accountable for their actions, which makes the situation repeat itself. There is a true disrespect for the life of the adolescent.

Although 99% of the Brazilian units offer fundamental education and 63% offer intermediate education, 14% do not offer certification and the following problems are frequent: schools are not adapted to the special needs of internees, a lack of teachers, insufficient classrooms and lack of connection between education and other activities at the unit.

When it comes to professional training, the IPEA research shows that 85% of the units investigated offer these type of activities, although in a very precarious manner, without a systematic plan that responds to the real requirements of the work market and the adolescent. Likewise, there is no criterion for directing the adolescent to the professional courses in 42% of Brazilian units. Vacancies are offered as a “reward” for “good behavior”, although they should be a right for all.

When it comes to health care services for internees, the problems are the same as for the population in general, as 94% of the units use the local health care services, with the difficulties in making appointments, lack of specialist doctors and access to more complex tests. In addition, most units have not got special programs for the treatment of drug addicts, although the percentage of drug users among the internees is very high.

71 Jornal do Brazil newspaper, September 21st 2003.
CONSIDERATIONS CONCERNING SOCIO-EDUCATIVE MEASURES IN SEMI-OPEN REGIMES

Measures that do not deprive freedom are little used in Brazil because of their inexistence or insufficiency in the large majority of municipalities. In general, it is only the capitals and large cities in the metropolitan regions that possess mechanisms to apply these measures, and still, the special courts for adolescents often execute them incorrectly\textsuperscript{72}, as is the case in Recife, Fortaleza and Salvador. In various states there are also contracts with NGOs that execute these measures.

This partnership between Government and bodies from civil society is an interesting initiative, because it is a means of demonstrating the viability of the socio-educative system that has been partly discredited because the state does not treat it as a priority.

The result is that little by little the state distances itself from its responsibility to implement socio-educative measures whilst civil society, on the other hand, takes on a role that initially was only to set an example.

This phenomenon distances civil society from its particular role, the supervision of the implementation of policies. It also creates the false idea that the state, in this way, gives opportunities for democratic participation.

The dependency of the majority of municipalities on their State Governments is another fact that makes it difficult for the municipalities to execute semi-open measures, although this is a guideline that the National Council for the Rights of the Child and Adolescent (CONANDA) has already determined.

THE FEBEM SYSTEM IN SÃO PAULO: AN EXEMPLARY CASE OF THE VIOLATION OF THE RIGHTS OF ADOLESCENTS IN CONFLICT WITH THE LAW

The Foundation for the Well-being of the Underage in São Paulo (FEBEM – SP) is a legacy of the now extinct irregular situation that prevailed until the approval of the Statute of the Child and the Adolescent on July 13\textsuperscript{th} 1990.

\textsuperscript{72} What is referred to here as the execution of measures corresponds to the social, political and pedagogical provisions for their fulfillment, an atypical procedure for the juridical power that leads the investigation of the infraction and control that it is being applied in a correct manner, according to the Statute in the articles 90 and 95.
Created in 1976, in the middle of the military dictatorship, the FEBEM's history of almost three decades is marked by violations of the most basic rights of internees, and it still has not adjusted to the model proclaimed by the ECA and the Convention on the Rights of the Child.

In 2001, the IV National Mission for Human Rights visited unit 15 in Tatuapé and unit 30 in Franco da Rocha and the Unit for Initial Care (UAI) and the Unit for Provisional Internment (UIP 6).

The mission, formed by a commission of prosecutors from the Court of Child and Youth, congressmen, journalists and representatives from the civil society, traveled through five Brazilian States and visited, without prior warning, a total of 18 units of internment, where they analyzed the living conditions, interviewed the directors and, principally, listened to the adolescents.

This report concentrates on the information collected in São Paulo, knowing that it is a sample of the reality for adolescents deprived of freedom all over Brazil.

The first unit visited was the Unit for Initial Care (UAI), a transit unit for adolescents before they enter the Febem. This unit has 62 vacancies, but on the day of the visit, 248 adolescents were interned. 15 days earlier the Prosecution Authority had testified to the presence of 360.

João José Sady, president of the Commission of Human Rights of the Brazilian Bar Association (OAB) in São Paulo, said in a recent interview in the lawyer’s newspaper in São Paulo that the Unit for Initial Care (UAI) in the Brás neighborhood has an average population of 400 adolescents, while it has the capacity for 60 internees.

This unit was also recently visited by the UN Special Rapporteur, Asma Jahangir, who after having her visit vetoed by the administration of the FEBEM – SP, managed to...

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74 The Estado de São Paulo newspaper - 19.09.2003: *Febem vetoes visit from the UN Rapporteur to Brás* Pakistani woman intended to visit the unit, that was subject for legal case because of overcrowding. / The State Foundation for the Well-Being of the Underaged (Febem) vetoed the visit of the United Nations’ rapporteur Asma Jahangir to the Unit for Initial Attendance (UAI) in Brás. By determination of the institution, she has to choose another unit discover the reality of offenders interned in the State of São Paulo. The veto caused problems in the relations between the organizers of Asma’s agenda and the State Government. / The Itamaraty (Ministry of Foreign Affairs) tried to mediate in the episode, but the position of the State prevailed. The rapporteur is making a 23-days-visit, invited by the Brazilian Government. In the end, she will produce a report on summary executions in Brazil. / According to the press department of the Febem, the institution sent a letter on the 12th, informing that the UAI in Brás is in a process of decrease and therefore a visit “with a large number of persons would disturb the routine” of the place. The UN group consists of four persons, and two translators and a representative from the Presidency of the Republic. In the unit there are 658 internees, but by juridical decision, this number should be reduced to 62 by November 21st. With the official veto, the Rapporteur will visit the Febem in Franco da Rocha instead.
get authorization from Cláudio Lembo, the vice-governor of São Paulo. The impression could not have been different. The Rapporteur affirmed: *Horrible, horrible, horrible!!!*

The mission’s report also certifies that the UAI is the worst of the institutions it visited. It describes how all the boys between 12 and 18 years of age in that institution have their heads shaved and use similar clothes: blue shorts, white T-shirt and sandals. They move from one place to another within the unit in a straight line, with their heads low and hands behind their back. They are not allowed to speak to anyone except for “excuse me, sir” when they get close to one of the staff. Those who dare to break the silence are immediately punished with kicks, slaps and blows with a broomstick. The unit is known as “here you receive in silence”. There is no separation of adolescents into age groups, physical development or seriousness of the infraction, as the ECA establishes. They all stay together, hanging around all day with nothing to do. They stay for longer than 40 days, which is the maximum period permitted by law.

The Unit of Provisory Internment (UIP 6) that was also visited, has the same profile as the UAI. All internees have their heads shaved; they use uniforms and are not allowed to speak. Health care services are very precarious. One of the internees told the commission that he had to extract a tooth himself, due to the strong pain, as his request for dental care was not attended. Another internee, who had been at the unit for more than a month, showed a bullet under his skin that needed to be removed. Various internees described torture sessions in which they were suffocated with plastic bags in police stations.

Tatuapé is a complex of 23 units. The mission visited unit number 15, indicated by prosecutors as one of the worst. The building was in a bad state with a constant bad smell. The internees complained about the violent external guards, who when called to solve a dispute, always beat them up. They also complained about the food, saying that they had found nails, hair and insects in the food. In relation to the health conditions, almost all of them presented visible skin diseases. Another fact that draws attention in the commission’s report is that the accommodation's windows are sealed with compact metal sheets that impede ventilation and natural light and creates a climate of total insalubrity.

Franco da Rocha, the fourth visited by the mission, is another complex of units. It was constructed for adolescents with a serious profile, as the internment system calls those who are considered dangerous. The unit that was chosen for the visit was number 30, the largest in the complex. The accommodation consists of windowless cells where the adolescents spend the whole day lying on the floor, because the monitors take away the
mattresses and blankets in the morning. All meals, including breakfast, are taken in the cells. Various monitors hit internees with tubes and put them under cold water for up to an hour, to make the bruises disappear. The adolescents do not study and there are no sport, cultural or leisure activities whatsoever. The mission’s report also denounces that many internees have marks all over their bodies. The adolescents recount that the reception of novices is a beating to introduce them to the “disciplinary administration”. On May 3rd 2000, an adolescent lost six teeth after having been beaten with a stick. On July 7th the same year, there was a general beating and the yard had to be washed down because of the amount of blood.

It is worth noting that during the year 2003, Franco da Rocha had 17 uprisings, with a total of eight deaths, which represent, really, a cry for help and the denunciation of the reality of the socio-educative system in Brazil. In December 2003, there was a judicial determination to deactivate it.

THE ISSUE OF PENAL UNIMPUTABILITY OF ADOLESCENTS IN BRAZIL

A widespread process of intolerance against adolescent offenders is being organized, principally in Brazilian capitals. The collective imagination has created the false idea that our adolescents are not sufficiently responsible, that the state has been mild towards them and that they are the main actors in the phenomenon of criminality.

The mass media, in the first place, has divulged the idea that the adolescent who commits an infraction is someone dangerous who should be segregated. It completely fails to take into account the adolescent’s life history, which although it does not justify the infraction, denounces the crises of the Brazilian State and the insufficiency and inefficiency of its social policies.

It is worth noting that a recent survey done by the Security Secretariat of the State of São Paulo shows that the participation of adolescents in serious crimes is small. They are responsible for about 1% of intentional murders in the state. They are also involved in 1.5% of the robberies, which is the major motive for internment in the Febem and 2.6% of armed robberies (robbery with the death of the victim).

This perspective must not be lost when combating infractions, it is not the adolescents that should be combated, but the situation of social inequality that contributes
to this type of behavior. The adolescent should be seen as a person who is subject to the vicissitudes of life.

RECOMMENDATIONS

1. That the penal unimputability of persons under 18 years of age must be maintained, in respect to the age group that the Convention on the Rights of the Child establishes for integral protection and taking into account the higher interest of child and its peculiar condition of development, with a special administrative claim for responsibility, judicial sanction and socio-educative treatment.

2. Respect for the principles of exceptionality and brevity of socio-educative measures.

3. Increase of the application of socio-educative measures in open administrations and qualification of the corresponding public programs.

4. Respect for the maximum limit of 40 adolescents per unit of internment, as the National Council for the Rights of the Child and the Adolescent - CONANDA establishes and enabling them to reach their pedagogic aims.

5. The creation of a national plan for executing socio-educative measures that establishes guidelines for the architectonic environment of the units and the access to professional training, sports, leisure and cultural education in the institutions, as well as initial reception of the adolescent who has committed an infraction and support when he/she leaves the system.

6. Guaranteed technical defense for all adolescents accused of having committed an infraction, in all phases of the investigation procedure, through the public defense.

7. Maintenance of socio-educative programs by the public administration, while the judiciary, the prosecution authority, tutelary councils and the civil society have the duty to supervise and control these measures.

8. Creation of provisional internment units, with a different physical space from the definitive internment units, with respect for the guarding and non-sanctioning nature.

9. Permanent training of professionals working with the application and execution of socio-educative measures, so that they incorporate the paradigm of integral protection.

10. Gradual deactivation of the large internment complexes and implementation of decentralized units that make it easier for the adolescent to have external activities while he is deprived of freedom.
11. Realization of an information campaign about the Convention on the Rights of the Child aiming to promote a real change in the social concept of children and adolescents in conflict with the law, and so contributing to break the paradigm of social pathology.

12. That the socio-educative programs for the adolescent offender in human rights promotion policies are linked to basic social policies and are perceived as integrated.

13. Democratic social control of the mass media in relation to information about the situation of child in Brazil, especially in cases of adolescents in conflict with the law.
5. THE MURDER OF CHILDREN AND ADOLESCENTS IN BRAZIL

“The adult is very stupid”
Declaration made by Patrícia Correia Regina, 11 years old, who used to live in the favela Vigário Geral. After the massacre in August 1993, she left the community to live on the street.75

INTRODUCTION

This section will discuss the murder of children and adolescents in Brazil. The issue deserves special attention because, among other reasons, the sources cited show super-victimization of young people in Brazil, and in this group are included adolescents protected by the International Convention on the Rights of the Child. Many figures indicate that Brazil is a violent country, especially against young people.76

It is important to emphasize that this super-victimization affects young people up to 24 years of age and not only the adolescent. But, one can perceive a growing tendency of this type of violence in the age group that includes adolescents, principally those who are getting close to full legal age. It has not been possible to distinguish the numbers of incidents for adolescents up to 17 years of age, which would be the ideal, due to the lack of specific official statistics on adolescents who are victims of murder. As will be seen, the majority of the sources used in the elaboration of the reports that are cited in this document are official statistics.

ANALYSIS OF MURDER AS A CAUSE OF DEATH AMONG CHILDREN AND ADOLESCENTS IN BRAZIL

The age group between 10 and 19 years of age corresponds to almost 21% of the population of Brazil: 35,302,972 out of 169,872,856 inhabitants77. UNESCO carried out a study with the title Map of Violence 3 (MV3)78, based on statistics from the SIM/DATASUS, IBGE from the year 2000, that denounces the existence of super-

76 “Compared to international figures, Brazil occupies the 2nd position among 60 countries in the world that were analyzed in this work. Although the rates in Brazil are much lower than in Colombia, they are extremely high in an international context. The young population in Brazil has a rate of 48.5 murders per 100 thousand which corresponds to a third place, very distant from the group of 14 countries with less than one murder per 100 thousand young people”. UNESCO Brazil – Map of Violence 3. Waisenfisz, 2002 (http://www.sociologiadajuvenude.hpg.ig.com.br/mapadaviolenciaii.htm)
77 IBGE (Brazilian Institute of Geography and Statistics) – Populational Census 2000.
victimization of young people (15 to 24 years old) by murder (here understood as death by intentional aggression\textsuperscript{79}). According to this document, during the 1990s “the number of young murder victims increased 77%, while the same figure for the total population is 50,2%”.\textsuperscript{80} It also states that “in the total population, only 4,7% of the obits result from murder, while they are responsible for 39,2% of the deaths among young people”, and, in some capitals like Rio de Janeiro, São Paulo and Vitória (State of Espírito Santo), this figure reaches 50% of the deaths among young people. The table below indicates the average percentage of murders in the total of obits per age group, based on statistics) from the Brazilian capitals alone:

<table>
<thead>
<tr>
<th>Brazil (2000)</th>
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</thead>
<tbody>
<tr>
<td>15 years of age</td>
</tr>
<tr>
<td>16 years of age</td>
</tr>
<tr>
<td>17 years of age</td>
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<tr>
<td>18 years of age</td>
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<tr>
<td>19 years of age</td>
</tr>
<tr>
<td>20 years of age</td>
</tr>
</tbody>
</table>

According to this study, the rate of mortalities from murder reaches its highest point between 17 and 20 years of age and then declines: “considering the age of the victims, one can observe that the number of victims of murder grows rapidly from 14 years of age until a peak of 2.220 deaths at age 20. After this point, the number of murders decreases gradually.”

We are aware that the monitoring of the implementation of the Convention has a limited focus, up to the age of 17. The Map of Violence 3, among other sources that were chosen for the present report, gathers data on adolescents and young adults ranging from 15 to 24 years old. However, as the above table allows us to conclude, there is a concentration of this type of violence in the age-group between 17 and 20 years of age, and this justifies including other statistics found in the Map of Violence 3 in this report.

\textsuperscript{79} Idem.
Youngsters (15 – 24 years of age) – death by external causes

<table>
<thead>
<tr>
<th></th>
<th>Youngsters (15 – 24 years of age) – death by external causes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>52,9%</td>
</tr>
<tr>
<td>2000</td>
<td>70,3%</td>
</tr>
</tbody>
</table>

According to the Map of Violence 3, murders with the use of firearms are the most frequent cause of death among young people. Murders are, according to this source, “by far, the principal motive of firearm use”.

The rate of mortality by firearms, where accidents, murders, suicides, are included, have grown, as the following table show:

<table>
<thead>
<tr>
<th></th>
<th>The rate of mortality by firearms (15 to 24 years of age)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>35,1%</td>
</tr>
<tr>
<td>2000</td>
<td>41,9%</td>
</tr>
</tbody>
</table>

The table below shows the concentration of the use of firearms in murders committed against young people:

<table>
<thead>
<tr>
<th></th>
<th>Rate of murders by projectiles of firearms (15 to 24 years of age)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>66,1%</td>
</tr>
<tr>
<td>2000</td>
<td>74,2%</td>
</tr>
</tbody>
</table>

Interesting evidence found in the Map of Violence 3, is that 90,3% of the deaths caused by projectiles of firearms (PAF) correspond to the category of murders, in the year of 2000, for the total Brazilian population.

According to a study carried out by CLAVES/Fiocruz\textsuperscript{81}, one of the most serious phenomena faced by Brazilian society today is the growth of the rates of fatal violence and the effects of wounds and traumas resulting from the most varied types of aggression that young Brazilians suffer. CLAVES uses statistics from SIM on mortality among young people between 15 and 24 years of age by external causes in all of the country in the

\textsuperscript{80} Idem.

\textsuperscript{81} FIOCRUZ. Bulletin from CLAVES (Latin-American Center on Violence and Health), ‘MORBIMORTALITY AMONG YOUNG PEOPLE BY VIOLENT CAUSES IN BRAZIL: AN ANALYSIS OF THE 1990s’. (Year II – September of 2001)
period between 1990 and 1998. They indicate an endemic situation with steadily rising figures since the beginning of the 1980s and, still, an ascending curve of murders in this age group.\footnote{82 According to the report cited above, “These changes in the population in general and in absolute numbers, from a total of 13.910 in 1980, to 40.231 in 1998, leading to an over-mortality of 12 men for one woman. In the same year, 70% of the total of murders were of young people, among them mainly poor men living in the outskirts of the cities”.}

Furthermore, it is important to register that, according to the figures presented by this research center, 65.8\% of the murders of young people in Brazil as a whole in 1998, involve firearms, which confirms the information in the Map of Violence. The study concludes, “All indicators used to analyze the reality in this country, draw attention to the fact that, consciously or unconsciously, murders rates indicate a latter-day form of selection of the species”.

**RESPONSIBILITY**

**Impunity: identify and make accountable**

The degree of impunity among murderers of children and adolescents in Brazil results from the authorities’ failure to identify and charge the authors of murders committed against children and adolescents. Innumerous errors are committed during the two principal stages of penal pursuit: penal inquiry and penal action, when the State should exercise its right to punish and make an effort to identify and charge the authors of crimes like murder.

Several Brazilian researchers have been unanimous about the undeniable impunity for persons who murder children and adolescents in Brazil. One of them, Sérgio Adorno, created an index to calculate the rate of impunity of these crimes. Between 1991 and 1996, the probability that a person who killed a child or an adolescent would be punished in São Paulo was 1.72\%.\footnote{83 ASSASSINATIONS of young people in Brazil grow 22\%. Folha de São Paulo newspaper, São Paulo, June 11th, 2000. Cotidiano. p. 05} According to Adorno, “To reduce this rate [during the last few years] a big change within the Police and Court system would have been necessary, but it did not happen”.\footnote{84 Idem}
The Non-Governmental organization Global Justice Center describes in its report “Summary Executions in Brazil – 1997-2003”\textsuperscript{85}, a case called “Massacre in União dos Palmares, Alagoas”, which occurred in September 2002: the execution of four adolescents, shot in the neck and the head when they returned from a discotheque. A police inquiry was installed, but concluded that the deaths were the result of “a fight between groups of young people (galeras)”, and did not identify the authors of the crimes. The Brazilian Bar Association (OAB) in the state of Alagoas was not satisfied with the investigative process, which was full of mistakes and irregularities, nor with the behavior of the policemen in charge of the investigations (they moved the bodies from the crime scene, before the forensic doctors had made their examinations, for example) and required the reopening of the inquiry, under the responsibility of other police officers. The OAB concluded that there were strong indications of the participation of policemen, members of the death squad “Ninja Movement” and “the Vigilantes of the Union”, at the moment when the case was sent to Court.

The errors in the process of identification and charging lead to gaps that make it impossible to describe the profile of the authors of murders of children and adolescents in Brazil. Nevertheless, some of the sources used affirm that, in 1993, 50% of the assassinations of children and adolescents were committed by death squads, 40% by drug dealers and 8,5% by policemen\textsuperscript{86}. It is also important to stress that the ideology of social cleansing is disseminated without punishment, including by public authorities, as cited in a recent report from the Non-Governmental Organization Amnesty International that reproduces an official speech where a member of the Rio de Janeiro State Parliament, praises the massacre in Candelária.\textsuperscript{87}

\textbf{CANELDÁRIA\textsuperscript{88}: 23 de July 1993 - a tragedy that shocked the world}

On July 23 1993, a gang of hooded men opened fire against a group of over 50 street children who were sleeping rough near the Candelária Church in the center of Rio de Janeiro city. Seven children and a young adult were killed. The murder of the street children near one of Rio de Janeiro’s most prominent landmarks caused a national and international outcry. As a result, the authorities moved swiftly to investigate the killings and three military policemen and one civilian were charged with the murders shortly after the massacre. The charges against the four men were based mainly on the testimony of survivors of the massacre. Despite repeated appeals made at the time by Amnesty International and other Non-Governmental Organizations to the State and Federal authorities to provide protection and a place of safety for the children who witnessed the massacre, many witnesses continued to sleep on the streets where members of the military police allegedly repeatedly threatened them. Only one of the witnesses, Wagner dos Santos, was afforded full federal protection, following a further attempt on his life in December 1994. In October 1995 Wagner dos Santos identified through photographs four more military policemen suspected of involvement in the massacre. In April 1996 arrest warrants for these men were issued. Three were taken into custody, and the fourth policeman, Nelson Oliveira dos Santos Cunha, presented himself to the court, confessing to participation in the massacre.

\textsuperscript{86} “Faleiros (1993) calculates that out of 70% of the violent deaths in Brazil affecting adolescents between 15 and 17, 50% of them should be attributed to death squads, 40% to groups of drug dealers and 8,5% to the Police (Zaluar 1994:25/26)” cited by CEDECA-CE: “The Hope of Justice - Assassinations of Children and Adolescents”.
\textsuperscript{87} In 2001, a member of the State Parliament of Rio de Janeiro expressed himself in the following manner: «Nowadays, with the question of protection of human rights, some think that they can do what they want to. [...] the voters should understand my position and vote for me, knowing that, as in the case of the 17-year-old boy of that died in Candelaria, as I said earlier and repeat now, if another one dies, I’ll pay for the funeral and I’ll reward the one who killed him (http://web.amnesty.org)’’
\textsuperscript{88} Amnesty International AI Index: AMR 19/015/2.003 (http://web.amnesty.org): Brazil: Candelária and Vigário Geral – 10 years later.
A total of nine men were reportedly implicated in the Candelária massacre: three military policemen and one civilian indicted in 1993; four more military policemen detained in April 1996 following identification by Wagner dos Santos, (two of whom were later indicted) and one other military policeman who was killed in an unrelated incident in 1994.

By June 1997 three trials on the Candelária case had taken place. These resulted in the conviction of two military policemen: Marcos Vinícius Borges Emanuel in April 1996, and Nelson Oliveira dos Santos Cunha in November 1996 – both of whom confessed to involvement in the massacre.

Nelson Oliveira dos Santos Cunha was initially sentenced to 261 years in prison. On appeal in June 1997, however, he was acquitted of all counts of murder, and finally only received a sentence of 18 years for the attempted murder of Wagner dos Santos. The defense lawyer characterized the victims as petty criminals and thieves, asking the jury, “How many times haven’t you been robbed in this a way?”, implying that those children’s fate was a natural and justifiable consequence of their activities.

Marcos Vinicius Borges Emanuel was sentenced to 300 years in prison. Two other military policemen and a civilian charged shortly after the massacre were acquitted in December 1996. Two more military policemen, one of whom had been identified by Wagner dos Santos as having shot him in the face, were released without charge in May 1996.

On 25 August 1998, the military policeman Marco Aurélio Dias Alcântara was sentenced to a total of 204 years in prison.

Despite of the fact that the Candelária trials resulted in some rare convictions of Rio de Janeiro military police officers who were accused of violations of human rights, the massacre left a trail of violence and tragedy in its wake. Little has changed for the hundreds of children, adolescents and young people living on Rio’s streets. Wagner dos Santos has two bullets lodged in his head, suffers from partial paralysis in his face, and damaged hearing. Recent tests show that he suffers from lead poisoning as a result of the bullets in his head, which because of their position cannot be removed. He recently started a course of medical treatment which should hopefully eliminate the lead poisoning. The massacre that never stopped: A study carried out in 2001 by a well-known Rio artist, who accompanied the Candelária children before and after the killings in 1993, estimates that 39 out of the 72 children sleeping in Candelária at the time of the massacre had died of violent deaths on the city streets.

DEATH SQUADS

The action of death squads in murders of children and adolescents is the object of various studies, among them the dissertation “The Extermination of Children and Adolescents in Brazil”, covering the period from the late 1980s to the beginning of the 90s, where Nicodemos affirms that there were three categories of exterminators of children at the time: 1) those who give the orders, usually merchants, 2) the executors, mainly military policemen or former policemen, private security guards, drug pushers and civilians, local

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people who live in the poor communities and 3) the advocates of the extermination, persons who occupy prominent positions and status in the community.

The Global Justice Center\(^90\) proves the perpetuation, until today of the homicidal action of the death squads or group of “merchants, business men and other segments of the society” to abolish undesirable social groups, that supposedly are constituted by criminals. It informs that the profile of the victims is primordially poor young men who live on the outskirts of the big cities and aged between 14 and 30. This report is made up of cases from all over the national territory. In Bahia, according to a report elaborated by State Members of Parliament, the action of death squads in the state is getting more intensive each year: “1995: 104 registered cases, 1999: 135 registered cases, 2002: 302 registered cases.” \(^91\)

Adorno\(^92\) explains that in the 1980s, urban vigilantes who hunted bandits in the peripheries or groups of military policemen acting out of uniform formed the death squads. \(^93\). The Global Justice Center confirms Adorno’s hypothesis regarding the shift in the profile of death squads during the 1990s, indicating that currently they are also working for the drug-trafficking organizations. They continue, however, with their mission of social cleansing, or extinction of social groups considered undesirable, especially in the outskirts of urban centers.

It is important to point out the contribution of the drug-trafficking organizations in the increased numbers of murders against children and adolescents, especially where it is well organized, as in the city of Rio de Janeiro. \(^94\)

\begin{center}
\textbf{The growth of armed gangs of drug dealers}
\end{center}

Criminal groups have been engaged in violent disputes over territory in Rio since the early 1980s. In the 1990s these groups consolidated and increased their control over drug trafficking operations in the majority of Rio’s poorest communities. In 
\textit{favelas}, where there is usually very little, if any, official state presence, the drug gangs have become very powerful forces within the community. Captured leaders are mostly held in high-security prisons, from where they issue orders to a loosely based hierarchy of managers, who earn high salaries overseeing teams of look-outs, guards and delivery men for cocaine and marijuana distribution outlets - called "bocas de fumo". A recent report found that since the beginning of the 1990s the gangs have become militarily and technologically better equipped and have developed more advanced administrative structures. They have also adopted increasingly violent and repressive policing strategies within the 
\textit{favelas}, and have recruited children in growing numbers. The report documents cases of beatings, shootings and executions carried out by the gangs, not only of rivals, but also of alleged criminals and wrongdoers\(^94\).

\(^{91}\) Idem.
\(^{92}\) “Today, the profile of the exterminator is very diffuse and undefined. The authors of these crimes are getting professional” in ASSASSINATION of Young people in Brazil grows 22%. Folha de São Paulo, Cotidiano. P. 05, 11/06/2000.
\(^{94}\) Amnesty International \textit{AI Index: AMR 19/015/2.003[ http://web.amnesty.org]): Brazil: Candelária and Vigário Geral – 10 years later.
within the community where the act. These punishments take on the form of “social cleansing”, whereby through ridding the community of undesired and the elimination of rivals, the gangs strengthen their power. Such activities are allowed to flourish given the absence of official state presence in such areas. It cites estimates that around 10.000 armed drug traffickers, including 6.000 children, work in drug trafficking in Rio de Janeiro.

Police Action

The participation of policemen in death squads or individually, in violent and fatal actions against children and adolescents has been demonstrated in various research studies, like the ones used in this report.

In a study of police violence in the State of Rio de Janeiro, Cano\textsuperscript{95} sketches a panorama of police violence, concentrating on the mechanisms that support this phenomenon in Brazilian society. Although this study\textsuperscript{96} is not limited to children’s deaths only, it shows that young people are the main victims of extrajudicial executions carried out by policemen, as the following graph shows\textsuperscript{97}.

The police are responsible for many of the murders registered in the country. In his study, Cano identifies a group of policemen within the institution of the Military Police in Rio de Janeiro, which is responsible for a good part of the murders caused by firearms (PAF), in faked situations of ‘armed confrontation’. Self-defense is the most common formula to guarantee impunity for the aggressors in those cases. As the Military Police is responsible for the ostensive patrolling in the city, it justifies the committed executions with simulated ‘armed confrontations’. They take the corpses of the victims to the hospitals,

\textsuperscript{95} Cano, Ignácio. LETHAL POLICE ACTIONS IN RIO DE JANEIRO. ISER, October, 1997.
\textsuperscript{96} Idem.
\textsuperscript{97} Idem.
threaten witnesses with death and register the criminal incident at the police station as “Resisting Arrest”.98

Inácio Cano examines the characteristics of these false armed confrontations and gathers evidence that show that the municipality of Rio de Janeiro has a routine of extrajudicial executions. He indicates that there is a “deliberate intention to kill the opponent when: a) he is already caught or dominated; b) there are other obvious ways to catch him without taking his life or c) he does not represent a threat that justifies the use of firearms. Any of these three elements characterizes an execution”. 99

In a publication on summary, arbitrary or extrajudicial executions in Brazil, organized by Benvenuto100, there is a text from the Global Justice Center/Rio/São Paulo/2001, that cites a document from the Police Ombudsman in São Paulo. According to this document, out of 222 corpses resulting from police actions in 1999, 11% were younger than 18 years of age, 45,9% were young people between 18 and 25, 43,5% of the occurrences did not have witnesses indicated, approximately 60% of the victims did not have prior criminal records and they were not caught in the criminal act, 52,6% were shot in the back, 36% in the head and 23% received five bullets or more.

Amnesty International recently published a report101 that proves a constant practice of executions in the outskirts of the city of Rio de Janeiro, in the region known as Grande Rio: “according to the numbers supplied by the State Secretariat of Public Security, 521 civilians were killed in confrontations with the police in Great Rio de Janeiro alone (Rio de Janeiro city and neighboring satellite barrios and towns) during the first five months in 2003, compared to a total of 900 in the whole State of Rio de Janeiro during the entire previous year. During those five months, 22 policemen were killed whilst on duty in the city of Rio de Janeiro. A large number of cases documented by Amnesty International in 2003, that raised accusations of concealment and interference in the investigations by members of the police, strongly suggest that the majority of the deaths committed by policemen follow a systematic model of extrajudicial executions or, in the best case, excessive use of force.

98 Verani, author of the study titled "Assassinations in the Name of the Law", shows how inquiries investigating resistance of arrest tend to absolve the policemen involved from responsibility in cases where there are numerous evidences of extra judicial execution. Resisting Arrest is an official term used by the police to define cases of death and injuries occurred in situations of armed confrontation with the police, resulting from the resistance to police authority, as cited in Cano, Op. Cit. 14.
An former Ombudsman of the State Police informed Amnesty International that when he compared police reports on a killing with the legal forensic report he often found divergent results: the police report would declare that the victim died during a shooting because he did not surrender, while the legal forensic report in general showed that the fatal bullets had entered the back and were shot from a short distance, under circumstances that suggested that the person was a victim of an extra judicial execution.

THE MAIN TARGET GROUP

According to official reports, children and adolescents between 10 and 19 years of age “contribute to 3% of the total mortality in the country, with a flagrant masculine predominance among the deaths by external causes, especially accidents or violence. The proportional mortality by external causes in this group presented a progressive rise during the period 1980-1999, from 55% to 68%. Likewise, a progressive growth of the number of adolescent obits by murders can be observed in the period 1979 –1999. During those 20 years the number of murders increased from 1.018 to 6.373, among boys, and from 212 to 678, among girls”.102

However there are various other characterizing elements in the profile of the preferential victims of murder, such as color, age group, family situation, level of schooling, involvement in illegal activities, etc. that are not registered in the official report.

In a bulletin published by CLAVES/Fiocruz about the mortality pattern of murders in Brazil, the following assertion is found: “These murders do not target a homogenous group, but the results of former investigations reaffirm the strong components of class, gender, age, occupation of degraded spaces in the city and social exclusion among the victims”103. It also affirms the “specific external cause that grew most during the last 20 years were murders, with a number that is 109% higher in 1998 than it was in 1980. Beyond the gender issue, the profile of murders also shows discrimination by social class. Although the information from SIM does not permit a separation of income, geo-referential mapping and profession reveal that it is the poor population, those who live in favelas and in the urban outskirts that make up the profile of the majority of the victims”. 104

102 Brazilian official report to the UN Commitee on the Rights of the Child. 2003
104 Idem.
Age group:

According to the “Map of Violence 3\textsuperscript{105}, “it is in the young group, between 15 and 24 years of age, that the murders reach their major incidence.” In this context, the “critical moment’ of major risk to be a victim of murder, is at the age of 20.” In the year 2000, 17,797 young persons (15-24) were victims of murders, compared to 7,524 victims in 1980. This shows an alarming progression of this type of events. In terms of percentage of the total number of murders, as we have seen before, the super-victimization of young people begins at age 14, grows up to 20 years of age and then decreases, progressively.

The National Movement of Human Rights (MNDH) carried out a national media survey\textsuperscript{106}, of murders of children and adolescents in the year 2001. It shows clearly that the group with most victims of murder are adolescents, especially the group between 15 and 19 years old.

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<th>States</th>
<th>Victims: age (IBGE) 01-19 years old</th>
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\textsuperscript{105} UNESCO, Map of Violence 3.  
\textsuperscript{106} MNDH (http://www.mndh.org.br)
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**Ethnic group**

A survey carried out by CEDECA (Defense Center for the Rights of the Child and the Adolescent) in Bahia\(^{107}\), including 14 municipalities in the metropolitan region of the capital Salvador, shows that the majority of victims of violent death in 1998 involved children and adolescents, the majority of them aged between 12 and 17, 93% blacks, 95% living in the outskirts and 98% had a low degree of schooling.

In spite of the lack of scientific statistics on the ethnic component in the profile of the victim of murder, some researchers, such as Cano, fill it in, indirectly\(^{108}\). In this research about fatal victims in armed conflicts involving the police, Cano concludes that the police act in a racist manner, as black and colored persons make up 70,2% of the victims in Rio between 1993 and 1996, while whites represent 29,8% of the total. All these killings were described and registered as “Resisting Arrest”. As we have already seen, young people are the social group that is most affected by this form of violence. It is noteworthy that the main incidence of violence against young people, in the peripheries of the Brazilian urban centers, especially affects the black section of the population.

**Prior criminal records**

The causal relationship between the involvement of adolescents in criminal activities and the rates of murders in the same group has been object of various studies, such as *Vidas em Risco* (Lives at Risk).\(^{109}\) This work proves that victims of the so-called ‘extermination of children and adolescents’ - or the routine of murders against them - were not involved with drug pushing and criminality in the beginning of the 1990s. Following the

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same line, Adorno “affirms that various research studies prove that the majority of these children, accused of being criminals, are just poor children that live on the street”\textsuperscript{110}. The National Movement of Human Rights shows, based on a comparison of the quantity of child and adolescent victims and how many of them were accused of murders between 1997 and 1998 in São Paulo, a ratio of 4.6 dead children or adolescents for every victim of murder committed by children and adolescents. In Pernambuco, this ratio is 7.37 victims among children or adolescents.\textsuperscript{111} This means that children and adolescents are concentrated in the passive – and not active - pole when it comes to murder.

More recent data published by the Center of Analysis and Planning at the State Secretariat for Public Security in São Paulo, measured the involvement of persons under 18 years of age, as murderers. The research indicates that 1\% of children and adolescents were involved in the practice of murder, between January and October of 2003 in the whole state of São Paulo, where this age group corresponds to 36\% of the population according to information from the IBGE. The study considered adolescents who were caught in the act or mentioned in the official bulletin made by the police, which originated the investigations.\textsuperscript{112}

**INCIDENCE**

**Distribution Between the States**

According to the data from DATASUS/Ministry of Health,\textsuperscript{113} published in the bulletin of CLAVES/Fiocruz, one can perceive the evolution of murders of children and young people in the country, state by state, from 1995 to 1998, registered by age group.

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\textsuperscript{110} Idem.


\textsuperscript{113} Salvador has a reduction of 45\%. O Globo. Rio de Janeiro, 17/05/2000.
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In the table above, two states in the Southeast, Rio de Janeiro and São Paulo, have flagrantly higher figures than the others. One can also perceive the clear
concentration of these crimes on the group of adolescents between 15 and 19 years of age.

In the same bulletin, published by CLAVES/Fiocruz, the central zones and the outskirts of the cities present the highest indexes, while the lower figures correspond to the neighborhoods with more favorable living conditions. An example that verifies this is the city of Rio de Janeiro, where the tendency of concentration of mortality indexes of murders of adolescents between 10 and 19 years of age is in the central city and in the Leopoldina, both have the worst socioeconomic indicators in the municipality. These two areas are characterized by a larger concentration of the population living in favelas and intense action by drug gangs. 114

The Map of Violence 3 shows the distribution of indexes of violence for the age group between 15 and 24 on the map of Brazil, by region, throughout the 1990s, per 100 thousand inhabitants, as we can see in the following table:

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RECOMMENDATIONS

The gravity of the above information points out the necessity of reinforced measures of combat and prevention that should involve integrated efforts from different Governmental spheres – at a federal, state and municipal level – in order to define a clear diagnosis of the principal causes of the violence against the lives of children and adolescents, and outline specific policies to combat them, mobilizing necessary actions and resources for this purpose.

Based on this premise, it is especially urgent to create and implement a new model of public security policy that can efficiently protect the life of every child and adolescent in
the national territory and include, at least, the following measures:

1. Expansion, all over the national territory, of police stations that investigate crimes against children and adolescents;
2. Expansion, all over the national territory, of Courts specialized on processing and judging crimes against children and adolescents;
3. Guarantee processual priority and haste in the judgements on penal cases of crimes against the child and adolescent;
4. Formation of an official data base on murders of children and adolescents;
5. Educative campaigns at a national level for the control and commercialization of arms;
6. Creation of an independent ombudsmen for the State Police to receive denunciations and take due action, with monitoring;
7. Improvement of the technical police and autonomy and structure for the police and the medical-legal institutions;
8. Better working conditions for military and civil policemen, through the access to equipment, a dignified salary, among other things;
REPORT FROM THE CHILDREN AND ADOLESCENTS’ MEETINGS

BASE FOR THE PARALLEL REPORT FROM THE ORGANIZATIONS OF CIVIL SOCIETY IN BRAZIL ON THE UN CONVENTION OF THE RIGHTS OF THE CHILD

PROJECTS:

- ASSOCIAÇÃO CURUMINS (FORTALEZA – CEARÁ)
- PROJETO CIRCO BAIXADA (QUEIMADOS, BAIXADA FLUMINENSE - RIO DE JANEIRO)
- REDE AMIGA DA CRIANÇA (SÃO LUÍS – MARANHÃO)
- REDE RIO CRIANÇA (RIO DE JANEIRO – RIO DE JANEIRO)
“Every child has the right to go to the beach, to have a good family, to be happy, to eat well, tenderness, to a school so they can be something in life. Health is important, because without it we don’t survive. The child has the right to tenderness from the family. If this does not happen, the children take to the street, use drugs (…) there is also a lot of prejudice between men and women. It is necessary to have respect between persons. Old people also need to be respected and they need to respect children too”

(Group of Children between 8 and 12 years old - Rede Amiga da Criança / São Luís)

PRESENTATION

This report is the result of ten meetings with children that attend projects that have financial and professional support from the Fondation Terre des Hommes in Brazil: Rede Amiga da Criança, a network of 23 organizations that work with children and adolescents on the street in São Luís, capital of Maranhão; Rede Rio Criança, a network of 13 organizations that work with children and adolescents on the street in the city of Rio de Janeiro; Associação Curumins, an institution that works with children and adolescents on the street and exploitation of child labor in the city of Fortaleza, capital of Ceará and the Projeto Circo Baixada, a project of integration between children and adolescents on the street/at social risk zone with families and/or community, in the municipality of Queimados, Baixada Fluminense.

The objective of the report is to present, in their own words, the vision of the children and adolescents supported by the projects, about the guarantee and violation of the rights formulated in the Convention on the Rights of the Child, adopted by the UN General Assembly in November of 1989 and signed and ratified by the Brazilian Government. The rights established in the Convention are strengthened and guaranteed in Brazil through the Statute of the Child and Adolescent (ECA), Federal law nº 8069/90, since July 13th of 1990.
The report is a direct transcription of what the children and adolescents expressed orally during the meetings organized by the projects during the period November 6th to 20th of 2003. In Maranhão, the network Rede Amiga da Criança organized three meetings: one with a group of children between 8 and 12 years old, one with adolescents between 13 and 16 and another with adolescents and youngsters between 17 and 21 years, although only the expressions from the children and adolescents were considered. Six “educators” from the organizations that make part of the Rede Amiga network systematized these quotations. The material also comes from nine individual interviews.

In Fortaleza, the Associação Curumins organized two meetings: one with children and adolescents who live on the street and another group formed by ex-street children that are currently living at the refuge Sítio Vida Nova. This group formed exclusively by boys between 8 and 14 years of age. Here, eight individual interviews were done, besides the group work realized by two professionals: one educator/coordinator and one educator/observer, who registered what the children said.

The Project Circo Baixada organized two meetings: one with street children and adolescents who participate in the circus activities and art-education in the circus tent, one with children and adolescents on the street, that participated in activities but do not frequent the project tent’s. Seven individual interviews were done too. Six educators collected the children’s expressions during the meetings.

The network Rede Rio Criança carried out five meetings with bodies in the area, all of them accompanied by a collaborator from the Fondation Terre des Hommes and a educator or other professional from each body: Casa Lar Dom Bosco, Centro Sócio São Martinho, Centro Municipal de Atendimento Social Integrado Nelson Carneiro, Abrigo Ademar Ferreira de Oliveira, Pastoral do Menor – Casa do Catete. All together the research counted with the participation of 109 children and adolescents.

The collection of information was made using one single sequence of questions in all states, trying to join information on protection services, security, opportunities, role in society, relation to family, school, community, health, gender, race and motivation (please find list of questions in annex).

The method applied to collect the expressions was participative. The whole process was based on open conversation with the children and adolescents, in which
the objective of the meetings was explained. It is important to make clear that all the expressions are original and have not been altered later on. The identities of all the children and adolescents were protected, according to the law on children in Brazil, by use of fictitious names.

The information presented below shows a clear and precise vision from the children and adolescents who live on the street: a look on their history, their rights and their obligations. It is the voice of the children.

THE RIGHTS GUARANTEED BY THE CONVENTION ARE DISCUSSED BY THE CHILDREN AND ADOLESCENTS

2.1 The right to live in family and community

- Junior, 14 years old: “I would like to go back to live with my mother, in my house. But I can’t go back to live there, they will kill me because I robbed there, on the hill, close to there, to be able to buy coke and now I can’t go back. I think it’s stupidity this business of being a thief, what is it worth being a thief, to have money be in jail, I prefer being poor and living my life, what brought me down was drugs, now I am far from my family, my home”.

- Marcelo, 16 years old: “I don’t know what family protection is, I never had it, my parents treated me badly, instead of talking, they just “break the stick”\textsuperscript{115}, beating. My stepmother grounded me. On the street it’s even worse, we know a lot of thieves who want us to steal for them, so I think we need protection in all ways, from all sides.”

- Ricardo, 12 years old: “I need a family that likes me, that takes care of me, because I never had that. I ran away from home because my grandmother hit me a lot and my aunt beat me, they broke my head and even so my grandmother sent me out to beg on the streets, that’s very bad for a child. On the street you have to beg for charity, beg for food and hear a lot of “no”, to listen to “no” all the time is very bad.”

- André, 15 years old: “I would like my mother to make changes in her home, that my stepfather would disappear from the earth so I could go back home. I always helped my mother at home, washed the dishes. My stepfather uses drugs, drinks, hits my mother, he wanted to attack me, I was threatened to death by him and because of that I took to the street, but my desire is to be able to live with my mother again”.

87
2.2 The refuge centers and special police stations for children and adolescents – protection system

- Wendell, 16 years old: “I have already passed through the FIA\textsuperscript{116}, the court, council. This court business is very bad, I passed through assisted freedom, it was really bad, they hit a lot there at Padre Severino\textsuperscript{117}. There, one cannot even call the people \textit{tio} and \textit{tia}, one has to call them \textit{senhor, senhora}, if not, they beat you up. I passed through the police. When I left I took to the street hanging out around the Saens Penã and Central tube station. I even went to the police station, I’m currently under assisted freedom, I’m going to the judge, because I was caught with a knife. I was going home, I was there at Saens Penã, I was all relaxed with the knife on my waist, I found it on the ground”.

- Claudia, 9 years old: “I have already passed through the refuge house, there they beat us, they treated us very badly, and everyone was locked up.”

- Felipe, 15 years old: “The DPCA\textsuperscript{118} in Niterói is a massacre, full of rats, it hasn’t got mattresses, it’s concrete. The interrogation room but it’s a room of massacre, the guys get you and really beat you up, as if you were really a thief, there’s no such thing as being a child, adolescent, for them you’re a thief and they don’t want to know anything else. The police live off pocket money from the drug pushers. The police sell drugs in the favela, they’re sniffing coke side by side with those who live there, that’s wrong, that’s all wrong, they only get who they want, if they catch you with drugs or if you’ve got money, they take the money and let you go, if you haven’t got anything, well, that’s worse because you can even lose your life, I got out of many of these…”

- André, 15 years old: “I have already had contact with the police. I was sleeping on the street and they came and picked me up. At the DPCA the policeman put handcuffs on me, asked if I wanted to go to Padre Severino or go back to the street, he hit me and

\textsuperscript{115} “Break the stick” – popular expression, meaning beat, hit, take violent attitudes against a child/adolescent.

\textsuperscript{116} The Foundation for Infancy and Adolescence (FIA) in the State of Rio de Janeiro is a governmental institution, linked to the State Secretariat of Social Assistance and Citizenship.

\textsuperscript{117} The Padre Severino Institute is linked to the General Department of Socio-Educative Actions – DEGASE, an organ linked to the State Secretariat of Justice and Citizen’s Rights, responsible for the execution of the socio-educative measures in the State of Rio de Janeiro and is designated to adolescents in conflict with law, conceived to be a center for pre-trial detention.

\textsuperscript{118} Special Police Station for Protection of Children and Adolescents.
then let me go. I think that security can’t be only for people from the asphalt\textsuperscript{119}, it has to be for everyone. If you ask me, drug pushing will never end because the politicians are all involved, there in my community I saw a car from the local Government unloading drugs (Engenho Pedreira), that means, the police get us who are small and the big ones go free, protected on the asphalt”.

- Thiago, 17 years old: “I have passed through the DPCA, the Selection and Rehabilitation Center, I stayed there for four days, there are no hygiene conditions, the place is dirty, poor. I also spent 23 days at Padre Severino, there I was oppressed and discriminated for being homosexual, not by the educators but by the other adolescents there. I think that the institutions in the Baixada\textsuperscript{120} don’t prepare their educators, it’s all by indication and that harms the adolescent who goes there. The institutions don’t work with the adolescent, they don’t understand that teenagers only think about today, that he doesn’t worry about the future and because of this he commits some errors, this has to be worked better by the institutions, but this doesn’t happen yet and the person comes out even more rebellious. I also believe that the institution has to respect the adolescent more to make the adolescent respect the institution more”.

- Wesley, 17 years old: “I had assisted freedom at the CTR\textsuperscript{121}, where the adolescent offenders stay. There they have rules, during visiting hours you can’t even scratch yourself. If you make noise during the sleeping hour you die, the older ones don’t forgive you. Some on call educators beat you, they do bad things, they open your cell and send you to the cells with the bad guys and there you watch yourself. It is hell there”.

- Ricardo, 12 years old: “I passed through other refuge centers before I came here. There are some places where they beat us a lot, they’ve got some bad ‘tios’, they hit you, they leave you hungry, it’s worse than being on the street”.

The right to free opinion: children and adolescents want to be heard

- Wellington, 15 years old: “You don’t always listen to what a child says, adults impose their authority, adults think they know everything and that the child is only there to listen, be quiet and not talk much”.

\textsuperscript{119} Asphalt – term used here by the children/adolescents to identify persons who do not live on the hillsides, in the favelas.

\textsuperscript{120} The Baixada Fluminense is made up of 13 municipalities.

\textsuperscript{121} Selection and Rehabilitation Center
• Frederico, 16 years old: “No, here in this refuge they even listen to us, but not in everything, I think that there’s still a lot to be changed, I think that we, adolescents, haven’t had our say yet, not everyone listens to what we say, adults still give orders, they speak more, but I believe that we have a lot of wisdom to teach”.

• Benedito, 15 years old: “I believe that people listen to very little of what adolescents have to say. The law, in fact, is the property of adults, adolescents just obey and if you don’t obey you’re lost”.

• Ubiratan, 11 years old: “I think it is important to give your opinion. When people ask for our opinion it’s because it’s is going to be used for something. At school we sometimes give an opinion, but they don’t take it into account, in the family the opinion of the child sometimes isn’t worth anything because they think that we shouldn’t interfere in conversations between adults”.

• Luís Alfredo, 15 years old: “It’s just worth something at the National Movement (MNMMR\textsuperscript{122}), because at home it isn’t worth anything. In my house, my opinion is not respected”.

• Carolina, 16 years old: “In my family, my opinion is taken into consideration, but a lot of times when I want to talk they never let me. At school no one ever listens to me, but when they have events we participate. When there are problems, they never call us”.

Right to Education: children and adolescents see school as a space for opportunities

• Antonyo, 17 years old: “I’m not studying at the moment, but school is what guarantees the future. How are you going to be somebody in life if you don’t study? An illiterate person doesn’t manage anything”.

\textsuperscript{122} The National Movement of Street Children – MNMMR – was founded in 1985, it’s a non profit, governmental organization, which aims to defend the rights of the infancy and adolescence.
• André, 15 years old: “School is very important for the future, without studies no one is anything. I like to study, yes, I think its luck to rise in life without studying, Ronaldinho, Romário didn’t finish secondary school, but they were lucky”.

• Wesley, 17 years old: “School is important, I think there should be more schools, everyone should go to school to be able to get better jobs”.

• Carolina, 16 years old: “I think that when we start to study we feel that we want to be something because that is influenced by the studies. I like going to school, but I would like the way they treat the children there to change, because children don’t have their rights guaranteed, they can’t even speak, explain what’s happening or complain about teachers, they are always wrong. We know how to read, but we haven’t got rights and when we receive a low mark they still think that we don’t want to study”.

The right to not suffer discrimination: racial prejudice

• Danilo, 16 years old: “It is different, yes, tia, there is a lot of discrimination on the street, they (the police) only catch blacks. Once when I was with my friends, a police car stopped and they stood everyone against the wall and told me to leave. They said ‘get away, go to your building’. I was scared and said that I wanted to stay with my friends and then he asked: ‘You don’t live in that building over there?’, thinking that I was from Copacabana, just because I am white and my street friends are black, and because there are more black people on the street and the police only get the blacks, that is wrong.”

• Mariana, 11 years old: “I would like to be respected as black. I wouldn’t like to change color; I would like to be respected by my friends who are a lighter color. It isn’t fair that persons with lighter skin color give nicknames like ‘monkey’ and other things. Things change when you’re black, if a black person seeks a job, he doesn’t get it, only white people.”
• Marcio, 17 years old: “The society sees blacks as thieves, safado\textsuperscript{123}, this has to change because there are a lot of honest black people, workers, there are not only thieves, no”.

• Evelyn, 17 years old: “Unfortunately, racial prejudice exists. Blacks are very discriminated against. White have more priority in everything than blacks”.

The right to be protected against all types of exploitation: sexual exploitation

• Regina, 16 years old: “Life on the street is more difficult for girls. Because girls suffer from abuse from men on the street, the men offer them money. The girls are more responsible and they care more about helping their mothers”.

• Herlon, 12 years old: “The street is more difficult for girls, because men want to get them, the men want to do duzentão\textsuperscript{124} with them”.

Right to culture, sport and leisure:

• Thaís, 13 years old: “I would like poor children in the favelas, who live on the hillside, to have more places to play, because my community hasn’t got a square, it hasn’t got anything, just rubbish, rats, drugs, fighting, that’s why the children take to the streets. If the place where I live had a cool place, like they have in the South Zone, it would be better. I think it’s wrong to only have good things in the rich quarters”.

Motivation: dreams for the future

If children and/or adolescents have a voice, they know how to express what they want in their lives. And in spite of all the difficulties they experience, the large majority always desires a better future for themselves, for their families and their friends.

• Regina, 16 years old: “I want to go to school in the future, to get a job, I want to study law, I want to be a lawyer, I want to see my mother working”.

\textsuperscript{123} Used to define disloyal, dishonest.
• Juanita, 11 years old: “I see myself as a happy person, with a long way to walk in front of me. I want to be a great art teacher”.

• José, 15 years old: “In the future I want to have my own house, a job, a family, study at the university, have a son to educate differently from how my father treated me”.

• Marcio, 17 years old: “I want to leave the refuge center and go back to my family. I want to be able to work, have a profession and give a good life to my family. I want to forget that I lived on the street, used drugs. I want to be a lawyer or football player”.

Protagonism – to be the actor of one’s own life

• Bruno, 14 years old: “Changing my life, it just depends on me, we ourselves have to want it, if not, nobody changes, no one changes things for you. Today, I am known because I’m from the street, but later on I will be known because I’m a great football player”.

• Frederico, 16 years old: “My life is only going to change if I want it to, if I want to be happy it’s all up to me, I study, work, but if I stay away from school nothing will be different. Our lives only change when we ourselves make an effort and I’m making mine.”

• Ernani, 16 years old: “I will change my life for the better, that’s a decision I’ve already made, to get away from the street and I’m now in the Centro refuge, nobody attacked me on the street, I saw that it didn’t work out any more, I want to be respected, I will be respected, I already am respected because of my own choice”.

124 Duzentão – term used to characterize rape: act of sexual violation. Act of forcing girls to have sex without permission, will.
Change: the children and adolescents look upon Brazil’s future

- Carolina, 16 years old: “I want to end violence and drugs; and put the children to do activities, workshops, a lot of children get involved with drugs because they haven’t got opportunities, they live on the street, they haven’t got anything to do, no occupation”.

- Michelle, 13 years old: “I would like to change the situation of children and adolescents, because there are lots that don’t have schools, they are without assistance. They should give courses to prepare them for the employment market. The health service should improve, with birth control, because this rate is uncontrolled, a lot of children here in the Northeast die from hunger. They should create spaces for leisure, like theatres, sport fields, cinemas, and prices, so that these spaces would be cheaper, so that children and adolescents could have access. Access to information, to communication, to be better informed”.

- Vandelson, 15 years old: “If I was the president of Brazil, I’d make more refuge centers and housing areas for families on the street. I would take children off the street because living on the street is no good. I would put every child with its family and provide employment”.

- Leandro, 13 years old: “I would like to make things better, safer, because the way it is there is no protection. I don’t think that the Government is protecting anyone, because if there was protection there wouldn’t be any children/adolescents on the street, and the children/adolescents wouldn’t have to use drugs, rob and kill”.

Final Considerations: similarities and differences between the projects

The stories told by the children and adolescents supported by the institutions integrated in the Amiga da Criança e Rio Criança, Projeto Circo Baixa da and Associação Curumins networks make us perceive that, although they live in different regions of Brazil, the conditions offered for full development of children and adolescents still presents a great challenge for Brazil.

Every day, children and adolescents confront the lack of protection from their families, that, in turn, haven’t received support from their communities or the state to guarantee good housing conditions, health care and education for their children. This forces the children and adolescents in an early age onto the world of the street, where they encounter every type of violence (physical, sexual, psychological, etc). The mentality that
“work educates” puts poor Brazilian children and adolescents into the universe of child labor very precociously, which causes them to drop out of school and, consequently, they give up dreams and hopes of better days, as school is the space for growth and opportunity for children and adolescents.

In spite of the geographic distances between the projects, during the meetings several points in common were detected: the desire for a better future away from the streets, the necessity of an embracing family, the perception of school as the great opportunity for changes and, unfortunately, racial prejudice met in the spaces where they move, as the large majority of children and adolescents on the streets in this country are black.

A big difference between the projects is that, in Rio de Janeiro, the culture of “those who live on the street” is predominant, there are families that have been living in the world of the streets for generations, while, in the other states, the majority of the children and adolescents find themselves in child labor or drifting around, returning back home at night.

There is also a clear difference between the reality of every project: In Rio de Janeiro, the projects (Rede Rio Criança and Circo Baixada) have difficulties in the promotion of family reintegration, as many children and adolescents can’t go back to their families and community because of drug dealing. Going back to one’s family often means losing one’s life. In the Northeast, the projects Rede Amiga da Criança and the Associação Curumins, on the contrary, aim to return the beneficiaries to their families and make it successful.

Another issue emphasized by the children and adolescents is their perception of the institutions that deal with them, especially refuge centers and special police stations. Frequently, these spaces, which should be perceived as an alternative to the violence on the streets, represent one more violation of their rights, because many children and adolescents state that they suffered physical and psychological violence in these places, especially in Rio de Janeiro. In many cases, the Special Police Station for Protection of the Child and the Adolescent (DPCA) was perceived as a “torture place” or a “rubbish dump”. The children and adolescents told of cases of beating and punishment by the “educators”, for many of them the refuge centers were perceived as real “prisons”. Instead of being a place of passage, the refuge centers end up institutionalizing the children and adolescents, and they are transformed into spaces of institutionalized violation, which, in many cases, close the variety of opportunities for children and adolescents.
A big challenge for the projects is to work the protagonism of the children and adolescents within these institutions, whilst they participate in the projects. The projects are thought for them and not with them. There is still no institutional organization coming from the children and adolescents. The institution has its routine and its rules that are not thought around the children and adolescents, but for the good of institutional functionality. The beneficiaries are still mute, they need to be listened to, their motivations, their life projects are not always compatible with what the projects offer, which in many cases causes drop out and the return to the street world.

The stories of the children and adolescents show that there is still a long way to go to guarantee them integral protection and a secure and happy growth.
Annex

The list of questions used during the meetings and the interviews done with children and adolescents helped by the projects:

This list of questions served as support to direct the meetings with the children and adolescents in the four projects. They were not fixed questions, already formulated to put to the children and adolescents, but a guideline for the educators of the projects. The objective was to see what had changed with the Statute of the Child and Adolescent: the access to the services, the quality of these services, direct and indirect violence, children and adolescents’ perception of the family, school, their motivations, their way of seeing the world around them, among other things.

1. Have you passed through:
   → An institution for children and adolescents?
   → Assisted freedom?
   → Privation of freedom?
   Tell us how it was...

2. Did you have contact with the:
   → police?
   → police station?
   → judge?
   → defense lawyer?
   Tell us how it was...

3. Who do you turn to when you need protection?

4. What type of protection do you need most?

5. If you could change something in your life, in the day-to-day-routine, what would you change?

6. Do you believe that the situation that you are telling us about is easier for girls or for boys? Why?

7. Being white or being black, does that change anything? What?

8. Do you think that your opinion is taken into consideration in the spaces where you go, including institutions?

9. How do you see your future?

10. Is the school important for your future? Do (Did) you like to go to school?

11. If you were the president of Brazil, what would you change?
BODIES RESPONSIBLE FOR THE REPORT

ANCED – National Association of Defense Centers for the Rights of the Child and the Adolescent


These were institutions that worked in a similar way in different parts the country and they decided to join to be able to act better in defense of these rights. They were constituted as an organization from civil society, fighting for the defense of human rights among children and adolescents, with its specific strategy in social-legal protection.

This national network gave priority to direct action in social movements in the area of infancy, fighting for social transformation combined with the principal characteristics of the defense of rights, that is, social-legal protection as proclaimed in the Statute of the Child and the Adolescent.

As they made part of the history of social mobilization in Brazil during the 1980s and 90s, these institutions participated together in the new era of political struggle, with new strategies of intervention and accepting their part of responsibility for the transformation towards a democratic society as they gave evidence of situations of injustice, discrimination, exploration and torture.

These centers are references in the struggle for human rights of children and adolescents. They constructed their history in various states of the country and became capable of developing and spreading their technical-political methods and knowledge in various areas, especially those related to violations of children and adolescent’s rights.

Among the discussions between the centers, seeking to materialize what unites them and could be their identity, emerged a matter defined by the articles 86 and 87 of the ECA, that establishes that the rights of children and adolescents should be guaranteed through a interrelated complex of Governmental and Non-Governmental actions, involving the Federal level, the States, Federal District, municipalities and bodies for social-legal protection.

The official institutionalization of the National Association of Defense Centers for the Rights of the Child and the Adolescent - ANCED, in 1994, substituted the former National Network of Defense Centers. From this moment, we could count on a new
instance of nation-wide intervention that strengthens and increases the potential of every single center, without substituting their local actions. From a strategic point of view, the existence of ANCED also makes it possible for the representatives of these centers to act together with the other national actors of protection and defense of rights.


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**Fórum DCA – Permanent National Forum of Non-Governmental Bodies in Defense of the Rights of the Child and the Adolescent**

Fórum DCA - Permanent National Forum of Non-Governmental Bodies in Defense of the Rights of the Child and the Adolescent, is a national network of Non-Governmental bodies that struggles for the rights of the child and adolescent, regardless of distinctions of religion, race, ideology or political parties. It is open for cooperation with Governmental and Non-Governmental bodies, on national and international level, to reach its objectives.

Since 1988, the Permanent National Forum of Non-Governmental Bodies in Defense of the Rights of the Child and the Adolescent - FÓRUM DCA – has been gradually gaining recognition and legitimacy before the various social segments that work, directly or indirectly, with children and adolescents. Today, it connects 41 bodies. This linkage emerged from two basic motives: the alteration of the legal panorama in the end of 80’s, that involve the issue of children and adolescents; and the need for a national connection between bodies that act in the area of defense and promotion of the rights of the childhood and the youth.
ABOUT THE AUTHORS OF THE REPORT

The Right to Health:

Lia Freitas Cavalcante, legal assessor at the Defense Center of the Child and the Adolescent, Master in Law at the Federal University of Santa Catarina, teacher of the disciplines Legal Logic and Theory of Argumentation and Human Rights.

The Right to Education

Salomão Barros Ximenes, lawyer, Master student in Brazilian Education at the Federal University of Ceará (UFC), member of the Defense Center of the Child and the Adolescent in Ceará and the National Campaign for the Right to Education.

The situation of adolescents in conflict with the Law in Brazil

Francisco Antonio Monteiro Lemos, lawyer at the Defense Center of the Child and the Adolescent Pe. Marcos Passerini, teacher at the University Center of Maranhão – Uniceuma, in the disciplines Right of the Child and the Adolescent, Civil Right and General and Professional Ethics, assistant coordinator of the nucleus of studies on the Right of the Child and the Adolescent of Uniceuma, member of the National Movement of Street Children in Maranhão, specializing on Civil Processual Law.

The murder of children and adolescents in Brazil

Michelle Gueraldi, lawyer for the Human Rights Organization Projeto Legal, Lecturer in International Public Law, Masters in Law from Harvard University with the thesis 'The Invisible Children on the Streets of Rio'.

Legal Consultant

Wanderlino Nogueira Neto. Prosecutor (retired) of the Prosecution Office of the State of Bahia, ad hoc consultant for international organisms and Governmental and non-Governmental organs in the area of legislation and political policies of protection of human rights (gender and generation). Held the following functions: University teacher of Public International Law (Federal University of Bahia), General Prosecutor of Justice in da Bahia, National Secretary of the Forum DCA, Special Consultant for UNICEF in Brazil, Angola and Cape Verde and Executive Secretary of the National Association of Defense Centers for the Rights of the Child and the Adolescent – ANCED.

Coordination Responsible for the Report Working Group


NATIONAL SECRETARIAT OF ANCED
National Association of Defense Centers for the Rights of the Child and the Adolescent
Rua Dep. João Lopes, Nº 83 - Centro
60130-060 – Fortaleza – CE - Brazil
Telephone/Fax – (55)85.253.0034
E-mail: anced@terra.com.br

NATIONAL SECRETARIAT OF FORUM DCA
Setor de Autarquias Sul – Quadra 05 – Bloco N – Lote 01 – Sala 218
70.070-913 – Brasília – DF – Brazil
Telephone – (55)61.323.6992  - Fax – (55)61.316.9036
E-mail: forumdca@forumdca.org.br

NATIONAL COORDINATION OF ANCED:
CRAMI – Campinas - Regional Center for Attention on Child Abuse – Campinas – São Paulo: Enza Bueno Mattar

CEDECA - Ceará - Defense Center of the Child and the Adolescent in Ceará – Fortaleza – Ceará: Renato Roseno de Oliveira

PROAME – Program of Support to Boys and Girls – São Leopoldo – RS: Suzana Elisa Friedrich

National Network Professional of ANCED:
Frans van Kranen

NATIONAL COORDINATION OF FORUM DCA:
Fundação ABRINQ: Maria de Lourdes Rodrigues

Movimento Nacional de Meninos e Meninas de Rua: Perla Ribeiro

Conselho Federal de Psicologia: Nancy Carvalho

 União Brasileira em Educação e Ensino/Marista: Vicente Falqueto
BODIES AFFILIATED TO ANCED

North Region

CEDECA Emaús - BELÉM – PA
CEDECA – Acre - Rio Branco - ACRE
CEDECA “Maria dos Anjos” - PORTO VELHO - RO

Northeastern Region

CEDECA “Pe. Marcos Passerini” - SÃO LUIS - MA
CEDECA do Ceará - FORTALEZA - CE
CENDHEC – RECIFE - PE
GAJOP - RECIFE - PE
Centro das Mulheres do Cabo - CABO DE SANTO AGOSTINHO – PE
CEDECA Zumbi dos Palmares - MACEIÓ - AL
CEDECA “Yves de Roussan” - SALVADOR - BA

Midwest Region

Center of Organization in Defense of the Child and Adolescent – MT - CUIABÁ - MT
CDDH Marçal de Souza Tupã I - CAMPO GRANDE – MS

South Region

PROAME – Program of Support to Boys and Girls - SÃO LEOPOLDO - RS

Southeastern Region

Everyone’s Circus / State Defense Center “Helena Greco” - BELO HORIZONTE - MG
ABRAPIA - The Multiprofessional Brazilian Association of Protection of Child and Adolescence - RIO DE JANEIRO - RJ
CDDH Bento Rubião - RIO DE JANEIRO - RJ
CEDECA Dom Luciano Mendes - RIO DE JANEIRO - RJ
Organization of Human Rights “Legal Project” - RIO DE JANEIRO - RJ
CEAP - RIO DE JANEIRO – RJ
CHILDHOPE – Brasil - RIO DE JANEIRO – RJ
CDDH Padre Ezequiel Ramin - SÃO PAULO - SP
CEDECA "Mônica Paião Trevisan" - SÃO PAULO - SP
CEDECA “Noeme de Almeida Dias” - SÃO PAULO – SP
CEDECA House 10 - SÃO PAULO – SP
CEDECA “Luiz Gonzaga Júnior” - SÃO PAULO – SP
CEDECA "Mariano Kleber dos Santos" (CEDECA - SÉ) - SÃO PAULO – SP
CEDECA “Indiara Felix Santos Afonso” - SÃO PAULO – SP
CDDH. “Pe. João Bosco Burnier” in Guarulhos - GUARULHOS – SP
CEDECA – ALTA PAULISTA - SÃO JOSÉ DO RIO PRETO -SP
CRAMI–Campinas - Regional Center for Attention on Child Abuse - CAMPINAS – SP
**SUPPORT**

**Save the Children - Sweden** (former Rädda Barnen), founded in 1919, is a non-profit organization without religious or political links. It consists of approximately 90,000 members and since its foundation it works in the promotion and defense of the rights of children and adolescents, especially those in risk situations. It also aims to influence public opinion in relation to the matter.

**Fondation Terre des Hommes** – Since its beginnings in 1960, the Terre des Hommes movement has striven to be the ambassador for infancy and its life instrument. Present in the last decades both in catastrophes with wide media coverage (the Algerian war, famine in Biafra, Bangladesh and Ethiopia, civil wars and conflicts in Afghanistan, Sri Lanka, or Kosovo), and in forgotten or lesser known atrocities (the traffic in children, pedophile rings, etc.) Terre des Hommes concentrates on emergency and long-term actions. The movement is concerned with making the effects of the projects they support durable, working to reinforce the networks of organizations supporting children and bringing a methodological contribution to the institutional development of its operational partners. In addition, it invests in advocacy actions, developing awareness raising campaigns for society as a whole about the guarantee of the rights of the child according to the 1989 International Convention on the Rights of the Child and in Brazil for the implementation of the Statute of the Child and the Adolescent (ECA).