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### Совет по правам человека

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**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

### **Доклад независимого эксперта в области культурных прав Фарида Шахид**

#### Добавление

#### **Миссия в Бразилию (8–19 ноября 2010 года)\***

#### *Резюме*

По приглашению правительства Бразилии независимый эксперт в области культурных прав совершила 8–10 ноября 2010 года миссию в Бразилию.

В настоящем докладе рассматриваются аспекты поощрения и защиты культурных прав в Бразилии при уделении особого внимания праву на участие в культурной жизни, праву на пользование результатами научного прогресса и их практического применения и праву на пользование своим языком. В нем также затрагиваются культурные права коренных народов и бразильцев африканского происхождения.

Независимый эксперт принимает во внимание универсальный, неделимый, взаимозависимый и взаимосвязанный характер всех прав человека, как это подчеркнуто в Венской декларации и Программе действий (раздел I, пункт 5). Соответственно, представленные в настоящем докладе выводы касаются прав человека, которые напрямую связаны с осуществлением культурных прав, включая, в частности, право на свободу мысли, совести, религии и убеждений. В настоящем докладе независимый эксперт руководствуется имеющимися рабочими определениями культуры, в которых подчеркивается, что культуру

\* Резюме к настоящему докладу распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен.

можно понимать как продукт, как процесс и образ жизни. Такие определения содержатся в преамбуле к Всеобщей декларации о культурном разнообразии и замечании общего порядка № 21 (2009) о праве на участие в культурной жизни, принятом Комитетом по экономическим, социальным и культурным правам.

В докладе также отмечается ряд обнадеживающих инициатив, принятых правительством, гражданским обществом, частным сектором, Организацией Объединенных Наций и другими заинтересованными сторонами. В заключение независимый эксперт высказывает рекомендации, направленные на укрепление поощрения и защиты культурных прав для всех в Бразилии.

## Annex

### **Report of the independent expert in the field of cultural rights, Farida Shaheed, on her mission to Brazil**

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## I. Introduction

1. At the invitation of the Government, the independent expert in the field of cultural rights visited Brazil from 8 to 19 November 2010. The mission was facilitated by the Office of the United Nations Resident Coordinator and the United Nations Educational, Scientific and Cultural Organization (UNESCO), and included visits to the cities of Brasília (Federal District), Rio de Janeiro (State of Rio de Janeiro), São Paulo (State of São Paulo), Dourados (State of Mato Grosso do Sul) and Salvador (State of Bahia).

2. The independent expert visited cultural projects of various partnerships and initiatives in Ceilandia (Federal District), the favelas of Manguihnos and Pavan Pavãozinho (Rio de Janeiro), Teyikue in Caaparó municipality (Mato Grosso do Sul), as well as the terreiros Ile Axé Opó Afonjá in Salvador and São Jorge Filho da Gomeia in the municipality of Lauro de Freitas (Bahia). The independent expert also visited Guarani indigenous peoples in the State of Mato Grosso do Sul, in the surroundings of the cities of Dourados and Campo Grande.

3. During the mission, the independent expert met with senior Government officials at the federal, state and municipal levels working in the areas of culture, education, science and technology, human rights, women issues, racial equality, indigenous issues, social and economic development, strategic issues, and foreign affairs. She also met with the Office of Citizens' Rights, academics, grass-roots leaders from religious communities, representatives of civil society organizations (CSO), Afro-descendants, indigenous peoples, cultural and socio-cultural movements, the media and the United Nations Country Team (UNCT).

4. The independent expert expresses her appreciation to the Government of Brazil for providing her this valuable opportunity to examine the situation of cultural rights in Brazil. She extends her thanks to all stakeholders and interlocutors for their time, cooperation, information and insights on the promotion and protection of cultural rights in Brazil.

5. As indicated in her first report to the Human Rights Council (A/HRC/14/36, paragraph 5), the independent expert believes that the scope of her mandate can emerge by identifying and examining cultural rights understood as "rights in the field of culture". Accordingly, in this report she is guided by available working definitions of culture, which stress that culture can be understood as a product, a process and a way of life. Such working definitions are found in the preamble of the Universal Declaration on Cultural Diversity, and general comment No. 21 (2009) on the right to take part in cultural life, adopted by the Committee on Economic, Social and Cultural Rights. The independent expert is also guided by the recognition of the universal, indivisible, interdependent and interrelated nature of all human rights, as stressed in the Vienna Declaration and Programme of Action (section I, paragraph 5).

6. In line with the foregoing, in the present report, the independent expert examines aspects of the promotion and the protection of cultural rights in Brazil, with particular attention to the right to take part in cultural life; the right to enjoy the benefits of scientific progress and its implications; the right to benefit from the protection of the moral and material interest of artistic creativity and expression, the right to enjoy one's own culture and the right to use one's own language. She presents findings on human rights that are directly related to the enjoyment of cultural rights, including but not limited to, the right to freedom of thought, conscience, religion and belief. Mindful of gender and issues relating to disabilities, she presents a number of encouraging initiatives implemented by the Government of Brazil, the private sector, civil society organizations, and the United Nations to protect and promote cultural rights in Brazil. To conclude, the independent

expert proposes recommendations to strengthen the promotion and protection of cultural rights for all in Brazil.

## **II. General background**

### **A. Cultural diversity in Brazil**

7. Brazil is the largest and most populated country in the Latin American region, with a population of 185,712,713 in 2010<sup>1</sup> comprising a mixture of five major groups: indigenous peoples, persons of African, European, Asian and Middle East descent; and immigrants. More than 50 per cent of the population identifies as Afro-Brazilians.<sup>2</sup> Brazil has 225 ethnic groups that speak more than 180 different languages, a number of which are in danger of disappearing.<sup>3</sup>

8. A correlation between ethnicity, social exclusion and discrimination in Brazil has been largely documented. This has also been highlighted by the Secretariat for the Promotion of Racial Equality (SEPPIR), which stressed the detrimental impact that this has on cultural minorities that are yet to gain adequate visibility and appreciation in public policies, and in the country.

9. Brazil is a multi-religious society. According to the 2007 census, the majority of the population are adherents of Catholicism (73.8 per cent). Other religions professed include Protestantism (15.4 per cent); Spiritualism (1.3 per cent) and Afro-Brazilian religions (0.3 per cent). The census indicates that 1.8 per cent of the population adhere to other religions and belief systems and 7.4 per cent do not profess any religion. Some of the religions of African origin, introduced in Brazil by African slaves, include Candomblé, Umbanda, Batuque, Drum Mines (tambor de minas) and Quimbanda. These religions have enabled persons of African descent to preserve and continue their traditions, languages, knowledge and values.

### **B. The place of culture in the Governmental agenda**

10. Cultural rights are recognised in the 1988 Federal Constitution, with the national Government tasked with guaranteeing such rights. Among a number of robust measures, the National Plan of Culture (NPC), developed through broad consultative processes, was adopted in December 2010.<sup>4</sup> Several policies, plans and programmes implemented in the field of culture are interlinked through the National System of Culture, created by the NPC. For example, the Territories of Identity programme implemented, inter alia, in the states of Bahia and São Paulo, takes into consideration socio-cultural and economic variations in planning, programming and budgeting.

11. Three major dimensions of culture – symbolic, civic and economic – were identified in the participatory processes to formulate the NPC. These dimensions, introduced with the launching of the Living Culture programme in 2004, have now permeated public policies, plans and programmes related to culture.

<sup>1</sup> Instituto Brasileiro de Geografia e estatística (IBGE).

<sup>2</sup> Information provided by the Secretariat of Policies for the Promotion of Racial Equality (SEPPIR) and the Palmares Foundation. See also section III-C of this report.

<sup>3</sup> Information provided by the National Indian Foundation (FUNAI).

<sup>4</sup> Law 12.343 of 2 December 2010.

12. The “symbolic dimension” of culture is understood as the infinite possibilities of symbolic creation expressed, inter alia, in ways of life, religious beliefs, systems of values, rituals and identities. From this perspective, policies aim to promote and protect cultural diversity, which is considered the symbolic expression of Brazilian culture and an important national asset. Priority actions seek to encourage multiple cultural expressions as well as to ensure quality of life, self-esteem and ties of identity among Brazilians.

13. The “civic dimension” sees culture, as manifested through practices, services, artistic and cultural goods, as a force for social integration and mediation, and essential for the exercise of citizenship. From this perspective, interventions aim to ensure universal access to culture. Priority actions focus on stimulating artistic creation, democratizing the conditions for cultural production, providing training opportunities, expanding broadcasting and media, building capacity to preserve cultural heritage, and ensuring the free circulation of cultural goods while respecting copyright and related rights, and taking into consideration new ways and means of cultural diffusion and usufruct.

14. The third dimension, known as the “economy of culture”, views culture as a source of employment and income opportunities as well as a vector for socio-economic and human development. From this perspective, public policies focus on the promotion of cultural goods, manifestations and services, together with their production, circulation, commercialization and consumption.

### **III. Normative and institutional framework**

#### **A. International and regional legal framework**

##### **1. The international and regional legal framework**

15. Brazil has ratified major international human rights treaties which include provisions on the protection of cultural rights, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of all Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities. Brazil is yet to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

16. Brazil has also ratified major UNESCO international treaties that are considered essential for the enjoyment of cultural rights,<sup>5</sup> and a number of international instruments dealing with the protection of copyright.<sup>6</sup> Brazil is yet to ratify the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001).

17. Brazil has ratified all instruments adopted within the framework of the Inter-American System of Human Rights, including the American Convention on Human Rights, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), which recognizes cultural rights in article 14.

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<sup>5</sup> Among them, the Convention against Discrimination in Education (1960); the Convention concerning the Protection of the World Cultural and Natural Heritage (1972); the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

<sup>6</sup> Including the Universal Copyright Convention, and its three protocols.

18. Brazil has benefitted from programmes of the Inter-American Development Bank (IDB). Among its three priorities areas of cooperation, the 2010 IDB Country Strategy for Brazil identified the reduction of inequalities of gender and race in the region.<sup>7</sup>

## **2. International cooperation framework and some illustrative related initiatives**

19. The United Nations Development Assistance Framework identifies racial/ethnic equality as one of its strategic outcomes.<sup>8</sup> The UNCT helps to develop advocacy and communication activities and provides technical advice and cooperation to the Government in aspects related to social inclusion, including in some instances, the promotion and protection of cultural rights and related human rights.

20. UNESCO, for example, supports several culture-related projects and programmes, including the Regional Centre for the Safeguarding of Intangible Cultural Heritage in Latin America (CRESPIAL), of which Brazil is a member.

21. Brazil is also cooperating with the World Intellectual Property Organization (WIPO), where, in May 2009, it introduced a text, together with Ecuador and Paraguay, to discuss a future treaty for improved access for blind, visually impaired and other reading disabled persons. The aim is to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access to information and cultural materials by persons with visual disabilities. Using opportunities offered by current technologies, the treat would allow for the import and export of works in accessible formats.

22. Brazil has an agreement with Portugal that lays the foundation for establishing a cultural portal of the Community of Portuguese Language Countries as a virtual network enabling diverse stakeholders in the field of culture (such as Government authorities, academics, artists and other producers of culture, civil society and other organizations) to communicate, exchange experiences and plan joint actions.

## **B. National legal and policy framework**

### **1. The national legal framework**

23. Brazil is a Federal State composed of 26 federated states, a Federal District (the capital city, Brasilia) and 5,507 municipalities. The supreme law of the State is the 1988 Federal Constitution. Federated states are autonomous and have the prerogative to adopt their own constitution and laws within the limits established by the Federal Constitution. Municipalities enjoy restricted autonomy, as they are subject to the Federal Constitution and the legislation adopted by the relevant federated State.

#### *The Federal Constitution and the protection of cultural rights*

24. The Federal Constitution establishes the legal framework for the protection of cultural rights. It recognizes, inter alia, that the national Government shall guarantee the full exercise of cultural rights and access to sources of national culture; support and promote the appreciation and diffusion of cultural expressions, including expressions of popular, indigenous and Afro-Brazilian cultures and other groups (article 215).

25. The Federal Constitution protects cultural heritage, defined as individual or collective tangible and intangible goods related to the identity, action and memory of the various groups that form Brazilian society, including forms of expression, ways of living

<sup>7</sup> See Inter-American Development Bank (IDB) Country Strategy with Brazil, p. 5.

<sup>8</sup> The United Nations System in Brazil comprises 20 agencies, funds and programmes.

and creation, scientific, artistic and technological creations, works, objects, documents, buildings and other spaces intended for artistic-cultural manifestations, urban complexes and sites with historical, landscape, artistic, archaeological, paleontological, ecological and scientific value (article 216.6). Group actions to protect and redress damages to cultural heritage have been recognized in the Constitution (article 5, LXXIII) and in Law 4.717 of 1965.

26. The protection of cultural rights with respect to education and the use of languages is also recognized by the Federal Constitution, which underscores that elementary school curricula shall respect national and regional cultural and artistic values (article 210). The Constitution recognizes specific rights of indigenous peoples (articles 210.2, 231 and 232) and encourages international cooperation in the area of culture and cultural integration within Latin American countries (article 4). The Act of Constitutional Temporary Provisions also recognizes specific rights to Quilombo communities<sup>9</sup> (article 68).

*Legislation on tax incentives to promote culture*

27. The Federal Constitution provides the basis for adopting legislation on tax incentives to promote culture (article 216.6). Law 8.313 of 1991 (known as the Rouanet Law) created the National Programme to Support Culture (PRONAC). The law enables tax payers to benefit from tax exemptions for sponsoring or making donations to cultural projects. The independent expert was able to visit projects sponsored and implemented under this law, namely those of the Social Service of Commerce (SESC) in São Paulo, which offers a wide variety of cultural services and infrastructural support, among other things, for digital inclusion, promoting fine arts, cinematography, literature, and cultural performances, such as dance and theatre, with provisions for persons with various disabilities.

28. This law is an important tool for the promotion of cultural productions, and concern was expressed at the lack of universal coverage. An amendment bill under consideration proposes the creation of five new funds in addition to the existing one for audiovisuals. These include a proposed global fund for equality to sponsor cross-cutting issues and thematic cluster funds in the areas of arts, books and reading, diversity, citizenship and access, memory and Brazilian cultural heritage.

*Legislation on education and cultural diversity*

29. Brazil has adopted measures to promote appreciation for the value of cultural diversity in Brazil, including the adoption of laws on the cultures of indigenous peoples and Afro-descendants. These include Law 10.639 of 2003 which introduces the compulsory study of the general history of Africa and the history of people of African descent in Brazil, in primary and secondary schools, and Law 11.645 of 2008 which seeks to promote public awareness of indigenous cultures and rights in the media and in the general education system.

30. Stakeholders highlighted numerous factors that prevent the effective implementation of this law, such as the lack of appropriate pedagogical materials, adequately trained teachers, as well as insufficient coordination between the education authorities and other relevant State institutions. While teaching materials are being developed by public institutions, the need to enhance support, diversify educational staff to include persons of African descent as well as indigenous peoples, and to include them in these endeavours was stressed. The need to establish mechanisms at the Federal, State and municipal levels to monitor and make recommendations for the effective implementation of these laws with the

<sup>9</sup> Descendants of slaves brought to Brazil.



participation of Afro-descendants and indigenous peoples was also highlighted as a precondition for achieving the goals of these laws.

*Legislation on racial equality and cultural rights*

31. Law 12.288 of 2010, known as the Statute on Racial Equality, aims to combat prejudice on racial grounds and to remedy historical wrongs. It created the National System for the Promotion of Racial Equality (SINAPIR) and promotes coordination among all institutions working in this area. The Statute aims to protect freedom of religion and belief, promote respect for cultural diversity through education, ensure access to land rights and recognize the collective manifestations of Afro-descendants as historical and cultural heritage, including, but not limited to, their clubs and associations, with a proven history. The Statute further seeks to ensure the cultural rights of Quilombo communities, to celebrate key dates related to Samba and other Brazilian cultural expressions of African origin nationally, and to promote and protect Capoeira, a sport of Brazilian origin, as intangible cultural heritage.

32. The independent expert considers that the celebration of the International Year for People of African Descent in 2011 will provide an impetus for redoubling efforts towards the effective implementation of this new law in Brazil.

## **2. National policy framework**

*The National Human Rights Policy*

33. The third edition of the National Human Rights Policy (NHRP-III), published in 2009, addresses the promotion of the right to culture, leisure and sport as formative elements of citizenship contributing to the major goal of universalizing human rights in a context of inequalities. Priority actions include (i) expanding cultural programmes for the protection and promotion of Brazilian culture in accessible formats; (ii) developing cultural programmes and actions sensitive to the needs of specific ages and social groups in accessible formats; (iii) mapping all languages spoken in Brazil; (iv) expanding and decentralizing “cultural points” to ensure equal geographic coverage and equal access for low-income populations; (v) expanding the development of audiovisual productions, music and crafts of indigenous peoples; (vi) ensuring the right of persons with disabilities and mental illness to participate in cultural life on an equal footing with others and developing and utilizing their creative, artistic and intellectual potential.

*The National Plan on Culture*

34. As prescribed by the Federal Constitution (article 215.3), the National Plan on Culture (NPC) is the main long-term policy framework that guides affirmative action by the State in the protection and promotion of cultural diversity in Brazil. The NPC was adopted in December 2010, after seven years of wide consultations involving a variety of stakeholders, to set priorities in light of desired outcomes and the specific needs of the Brazilian context.

35. The primary goal of the NPC is to promote universal access to the production and consumption of cultural goods and services in Brazil. It seeks to ensure access by all to culture with a view to increasing reading habits within the population, and access to, as well as use of, theatres, museums and cinemas at all levels of society and in all regions. It also aims to ensure the documentation, promotion and protection of cultural diversity, including the cultures of indigenous peoples and Afro-Brazilians, and to strengthen the capacity of the State in the planning and execution of cultural policies.

*The National System of Culture*

36. The National System of Culture was created by the NPC to promote and integrate cultural policies adopted by the Federal Government, the states and municipalities. It aims to decentralize and organize the cultural development of Brazil to ensure the continuity of all projects in the field of culture. The Ministry of Culture, through its Institutional Coordination Secretariat, *has prepared a proposal, including directives and priority actions, to implement the system.* It has also developed an information system for indicators.

**C. National institutional framework****1. Culture-specific institutions and the protection of cultural rights**

37. The Secretariat of Identity and Cultural Diversity, created in 2003 as part of the Ministry of Culture, implements the Identity and Cultural Diversity - Plural Brazil programme which seeks to ensure access by groups and networks of cultural producers to support and promotion mechanisms, and to cultural exchanges between regions and groups in Brazil, taking into consideration factors such as gender, sexual orientation, age, ethnicity and popular culture.

38. The Ministry of Science and Technology is tasked with implementing national policies in the areas of science, technology, and innovation, including policies for computer science and digitalization, national bio-security, and the control of exports of sensitive goods and services. Additionally, it plans, coordinates, supervises, and controls scientific and technological activities.

39. The Secretariat of Science and Technology for Social Inclusion, created in 2002, implements the national programme for digital inclusion which, together with the Living Culture programme (*Cultura Viva*), supports initiatives for the exchange of cultural manifestations in the form of audio, audiovisual, photographic and digital multimedia materials.

**2. Other relevant institutions**

40. Several institutions at the federal level are relevant for the promotion and protection of cultural rights. At the policy level, these include the Secretariat for Human Rights, the Secretariat for Policies on Women, and the Secretariat on Strategic Affairs, all of which coordinate and implement policies, plans and programmes within their respective mandates to mainstream the promotion of culture and cultural rights-related issues.

41. The independent expert wishes to draw attention to four institutions that have the potential to play a crucial role in redressing violations to cultural rights. These are the Council for the Defence of the Rights of the Human Person (CDDPH)<sup>10</sup>, the Federal Attorney General's Office for Citizens' Rights, the Secretariat of Policies for the Promotion of Racial Equality (SEPPIR), and the Palmares Foundation.

42. The CDDHP, a collective body associated with the Ministry of Justice, is entrusted with the promotion and protection of human rights in Brazil. Some of its functions are human rights' awareness-raising and capacity-building activities, receiving and investigating complaints, together with other authorities, of grave and massive human rights violations and ensuring the accountability of perpetrators.

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<sup>10</sup> Law 4.319 of 16 March 1964.

43. The Federal Attorney General's Office for Citizens' Rights was established under the Office of the Attorney-General and may intervene in all public-interest litigation and cases. It is entrusted with ensuring and aligning practices with Constitutional provisions, and tasked with protecting citizens' rights, including cultural rights, and ensuring that elections are carried out as provided for, through public policies at federal, state and municipal levels, and advocating citizens' rights, including in penal and criminal matters. It also works to ensure that all State institutions comply with ILO convention No. 169. The Federal Attorney General's Office may also, in some cases, intervene on relevant matters, along with the Federal Public Prosecution, particularly through the conduct adjustment terms (usually referred as protocols), which are signed and executed by the parties (individuals and public or private institutions) that have violated cultural rights. The Brazilian Federal Public Prosecution and Public Secretariats at the State level and, along with the Regional Citizenship Rights Office and officers, receive and act on complaints, for example, by acting as plaintiff in complaints filed or, in the absence of enabling legislation, by using the writ of mandamus to ensure compliance with constitutional provisions. Other actions include holding public hearings, asking authorities for clarifications on complaints received, as well as issuing notices and submitting recommendations to concerned authorities. The Citizenship Rights Office has a special chamber on cultural heritage (PPFDC) to preserve the culture of different peoples, and it runs a radio programme in partnership with the Chamber of Representatives to ensure compliance with Constitutional provisions and regulations (Federal Constitution, article 221).

44. The Office for Citizens' Rights has taken up several issues related to cultural rights, such as filing a public lawsuit to revise the basis of taxation of musicians, ensuring the withdrawal of objectionable printed materials, running radio programmes regarding specific cultural communities, and submitting a recommendation to the Ministry of Culture to guarantee access for people with hearing disabilities. It is currently reviewing compliance with Law 10.639. The activities and outcome of actions, including legal cases, are reported on its website. Unfortunately, the work of the Office for Citizens' Rights is not well known, which suggests the need to promote awareness in accessible formats and languages.

45. The Secretariat of Policies for the Promotion of Racial Equality (SEPPIR), established in 2003, promotes equality and protection of the rights of persons belonging to ethnic or racial groups who are subjected to discrimination and other forms of intolerance, with a special focus on persons of African descent. SEPPIR coordinates the promotion of racial equality as a cross-cutting inter-ministerial and inter-agency issue; coordinates, promotes, and follows up on the implementation of public and private partnership programs at both national and international levels; monitors the implementation of international obligations of Brazil in this area; and assists the Ministry of Foreign Affairs regarding policies to approach African States. A number of stakeholders indicated that enhanced human, financial and material resources would enable SEPPIR to carry out its important mandate more effectively.

46. The Palmares Foundation<sup>11</sup> is a public institution created in 1988 by the Ministry of Culture. It is mandated to formulate, promote and implement programmes and projects which recognize, preserve and promote the contribution of African cultures to Brazilian society. Its areas of intervention include supporting projects related to Afro-Brazilian cultural identity and heritage; raising awareness to combat religious intolerance through seminars at the State level and by providing financial and technical support to implement stakeholders' actions to combat religious intolerance. It is also developing the necessary materials for teaching the history of Afro-Brazilians, and for dissemination through other media.

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<sup>11</sup> Law 7.668 of 1988.

## IV. Cultural rights in Brazil: challenges and achievements

### A. The right to take part in cultural life

47. The initial assessment on access to cultural goods and facilities, used in formulating the NPC in 2003, indicated a number of issues: reading habits and the attendance at theatres, museums and cinemas was limited to a small portion of the Brazilian population; cultural infrastructure, services and public resources in the field of culture were concentrated in certain regions, territories and social groups; traditional populations were unable to fully exercise their cultural rights because the means to ensure the promotion and protection of indigenous cultures and Afro-Brazilian groups were insufficient. Following this assessment, universal access to culture was incorporated as a primary goal of the NPC, and a number of programmes were instituted to promote the right to take part in cultural life through the promotion of Brazilian culture.

#### 1. Culture Points Programme

48. The Culture Points Programme (CPP), created in 2007, is an agreement between CSOs to support and further stimulate existing cultural community initiatives and projects. Like acupuncture points that stimulate and re-energize the health and vitality of the human body, through its projects, the CPP aims to stimulate access to culture, energize the production of cultural values and goods, and enhance the participation of Brazilians in cultural life in all its manifestations. Each project is intended to gain visibility, attract citizenship interest and stimulate broader participation.

49. The CPP began with partnership agreements between the Ministry of Culture and 445 CSOs and now includes more than 2,000 projects. Selected through public tenders, each CCP beneficiary receives a grant of 180,000 reais for a three-year period. Grant funds are used in various ways by the beneficiaries. Past usage has included capacity-building activities; the purchase of instruments, as well as design and multimedia equipment, and the production of cultural spectacles and events. The cultural points have stimulated considerable engagement, as intended, but some stakeholders expressed concern about the lack of policies to ensure long-term project sustainability. However, the independent expert was informed that support provided to cultural point projects may, in some instances, be renewed and that, in states like Bahia, some cultural point projects, such as those related to museums and libraries, have enjoyed continuous funding.

50. The lack of clear and objective criteria for selecting future cultural point projects was a concern raised. The independent expert was informed that, in general, the quality of the proposal, that is, its expected result, is usually a criterion. Projects from remote areas that score poorly on the Human Development Index, as well as those from groups that are traditionally excluded may be given priority.

51. The need to achieve universal coverage was a major concern highlighted by stakeholders in connection with this programme. While there is room for improvement, the CPP is considered an inspiring initiative in the context of the Mercosur<sup>12</sup>, and among the countries of the Ibero-American block.

#### 2. Other illustrative initiatives

52. Brazil has adopted a number of measures to strengthen the institutional infrastructure for the promotion of the right to take part in cultural life. Innovative

<sup>12</sup> Mercosur member states are Brazil, Argentina, Paraguay and Uruguay. States with associate membership status include Bolivia, Chile, Colombia, Ecuador and Peru.

approaches, in addition to those already mentioned,<sup>13</sup> include the Living Culture Agent Programme, which particularly encourages youth, by providing capacity-building activities to boost cultural point projects for young people. Seeking to contribute to education, entrepreneurship, and the use of micro-credits in the cultural arena, the programme is implemented in partnership with the National Programme for First Employment.

53. Inspired by UNESCO's Living Human Treasures programme, the Griot programme aims to preserve intangible cultural heritage, in particular oral traditions transmitted across generations, cultural practices, representations and expressions, as well as associated instruments, objects, artefacts and places. The programme is being implemented in a few Brazilian cities by the Ministry of Culture in a variety of partnerships with UNESCO and the Ministries of Labour, Social Welfare and Education. It provides financial and material support to griots, (*griô* in Portuguese) which are considered to be the repositories of oral tradition, belonging to entire communities.

54. The National Culture System is working to recognise and document traditional knowledge and to register authorship of individuals and communities, and sometimes "unknown authors." Projects are carried out by the Ministry of Culture, in association with communities and the Ministry of Agriculture. Concern was expressed about the weakening of traditional knowledge systems, of which the repositories are often women, as well as about tensions arising from the use and commercialization of traditional knowledge by pharmaceutical companies. Recently, ethno-environmental protection efforts have been initiated, including a pilot project in Rio Negro (Amazonas State) supported by the Ministry of Culture to enable women to continue their traditional agricultural practices on which their culture is based. Stakeholders indicated that further training of the staff of ethno-environmental projects was required.

### 3. Lessons learnt and good practices

55. In the independent expert's view, Brazil is to be commended for the Constitutional recognition accorded to cultural rights, and the important steps taken to promote and protect the cultural expressions and heritage of all, including marginalized peoples, and to disseminate knowledge of such expressions and heritage through very dynamic and often innovative processes. These include relevant legislation, plans, policies and projects, frequently developed through consultative processes from the grassroots to the federal level.

56. The right to take part in cultural life is reflected in the NPC which promises to ensure universal access to culture, and to democratize the production of cultural expressions and goods. In the independent expert's view, the adoption of the NPC is a major breakthrough for the promotion and protection of cultural rights in Brazil. It provides new impetus for the Government to renew and intensify efforts to make laws, plans and programmes a reality on the ground, through a variety of partnerships. This is of special significance as many interlocutors stressed that effective implementation remains a major challenge.

57. The independent expert wishes to stress that the right to take part in cultural life encompasses the right to create cultural values and products, together with the right to benefit from such cultural expressions as authored by the individual or the community. In this regard, some communities expressed concern that while their cultural expressions are used to identify Brazil (such as certain food, dances or sports) and for tourism, members of the concerned communities do not share in the benefits. In fact, sometimes their

<sup>13</sup> See section III.B herein.

contributions in shaping cultural expressions, which are commercialized by the State and other actors, are not even be recognized.

58. While there are challenges to more effective implementation of some of the laws, plans and programmes, during her visit, the independent expert saw and learnt about many examples of good practices of implementation, such as the CPP, NCP, and the tax incentives law, all of which have encouraged the fostering and strengthening of partnerships between stakeholders, including local communities, CSOs, artists, traditional masters, as well as youth, the private sector, the United Nations and others.

59. Building on progress made, the Ministry of Culture should continue to emphasize inter-sectoral coordination and the expansion of its programmes, projects and priority actions to all states and municipalities of Brazil. Information available in 2008 indicated that out of 5,507 municipalities, 600 were still in need of a public library – 440 of them in the northeast of Brazil – and over 90 per cent of municipalities did not have cinemas, theatres, museums and cultural centres. The situation has improved with the programmes on access to culture, such as the itinerant libraries, the promotion of cultural points in remote areas, and commendable steps to ensure access by and the creative contribution of persons with disabilities. However, popular expectations are high and disparities remain regarding the right to take part in cultural life, including the lack of basic infrastructure to access culture in a number of places.

60. Similarly, cultural diversity, rightly seen as a key asset for social integration, mediation and citizenship as well as development, is being widely promoted. As pointed out by several stakeholders, it is important not to reduce culture, as it constitutes a way of life and defines how people perceive, relate to and live with others and the environment. In this regard, a number of stakeholders pointed to the negative implications of seeing people only as consumers of culture, and of culture being reduced to a consumable commodity. Concern was expressed about a possible privatization of the cultures of specific communities. The importance of projects that promote culture within, rather than for, communities was underlined as the best way to make plurality visible.

## **B. The right to enjoy the benefits of scientific progress and its applications**

61. The right to enjoy the benefits of scientific progress and its applications is essential for the realization of human rights, including but not limited to, the right to education and the right to seek, receive and impart information. This right, whose full scope and dimensions are yet to be defined at the international level, presupposes an enabling environment conducive to the freedom indispensable for conducting ethical scientific research, and for equal access to scientific progress by all. Bridging the digital divide, which is still a challenge in Brazil as well as in many countries of the world, is an important measure to fully realize this right.

### **1. National Plan for Science, Technology and Innovation**

62. The Action Plan for Science, Technology and Innovation for National Development (2007-2010), implemented by the Ministry of Science and Technology, seeks to ensure the right to enjoy the benefits of scientific progress and its applications through the promotion of science, technology and innovation for social development and social inclusion. Two priority actions are being implemented in this area: the popularization of science, technology and innovation, and the improvement in the teaching of science and the dissemination of technologies for social inclusion and development. Both are implemented by the Secretariat of Science and Technology for Social Inclusion and aim to help economically and socially marginalized populations, inter alia, to bridge the digital divide. The most recent information available indicates that 399 projects for the implementation

and modernization of Technological Vocational Centres across the country were supported between 2003 and 2008.

## **2. Illustrative programmes for the promotion of the use of science, technology and innovation**

63. The programme on centres and museums of science, technology and innovation promotes itinerant activities, such as the Mobile Science project, which includes the exhibition of the Brazilian Association of Science Centres and Museums around Brazil. It also seeks to increase and improve the distribution of centres and museums, planetariums, observatories, zoological and botanical parks and other scientific-cultural facilities.

64. Of relevance from a rights-based perspective, the promotion of the use of science, technology and innovation includes scholarships at all levels – from scientific initiation to post-graduate degrees, offered by the National Council for Scientific and Technological Development, and the Coordination Body for Advanced Training of High-level Personnel.

65. The Digital Culture programme gives visibility and contributes to the circulation of cultural expressions, manifestations and goods supported by the CPP. With the support of the Digital Culture programme, each Culture Point receives a basic multimedia studio enabling it to operate a radio station, register information in digital formats, produce videos, design websites, and use free software programmes. The ultimate aim of this initiative is to establish a digital network connecting all culture point projects nationally, so as to facilitate knowledge-sharing and information exchange. In the Aldea Te'Yikue in the municipality of Caarapó (Mato Grosso do Sul State), the independent expert visited the Teko Arandu do Sul culture point project, where Guaraní indigenous people benefiting from this programme produce videos in their own language, document their own cultural practices, and maintain contact with Guaraní communities in Bolivia and Uruguay, as well as within Brazil.

## **C. The right to enjoy one's own culture: the case of indigenous peoples**

66. Ensuring the cultural rights of persons belonging to specific cultural communities who differ from dominant majorities (Afro-descendent communities, indigenous peoples and other groups) implies providing them with the possibilities for bringing their own individual and collective cultural viewpoints to the shaping of cultural and social developments, while preserving in parallel those elements of their culture that they desire to maintain. It also implies promoting and protecting the rights of minorities and indigenous peoples recognized at the international level, which protect minorities and indigenous peoples' cultures understood as a way of life, including their language, religion and system of beliefs, traditions, customs and other artistic and cultural manifestations.

### **1. Legal recognition and protection**

67. The Federal Constitution recognizes a number of rights of indigenous peoples, directly related to their cultural survival and protection. This includes the State's obligation to ensure to indigenous communities the use of their native languages and their own learning procedures in elementary education, which is provided in the Portuguese language (article 210.2). Rights include the recognition and protection of the social organization, customs, languages, creeds and traditions of indigenous peoples; rights to the lands they have traditionally occupied and ensuring respect for all their property (article 231) and resort to effective remedies to enforce these rights, including the intervention of the Federal Prosecutor's Office for the defence of indigenous peoples (article 232). Progress has been made in developing culturally sensitive and appropriate education for indigenous people: more than 300 bilingual textbooks have been prepared keeping in mind the cultural

perspective of communities on education, and a reported 95 per cent of teachers are from the community.

68. The Law 11.645 of 2008 seeks to promote public awareness of indigenous cultures and rights in the media and the general educational system. The independent expert especially urges the Government to take all steps to implement this law, as during her visit, she received information about a television programme, aired in November 2010, which portrayed indigenous peoples as practicing infanticide, and which gave rise to attacks against persons of indigenous origin in the city of Manaus (Amazonas State).

## **2. Institutional and policy framework**

69. The National Indian Foundation (FUNAI) is the State agency that formulates and implements national policies on indigenous peoples in accordance with the Federal Constitution. FUNAI has achieved great success in the promotion and protection of indigenous peoples' rights, including the protection of their lands. However, the independent expert notes that greater participation of indigenous peoples in the management and operation of FUNAI would reinforce the recognition of indigenous peoples' right to be masters of their own future, as a major goal recognized in both the ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. In this regard, the independent expert shares the concerns expressed by the Special Rapporteur on the rights of indigenous peoples on the need to revisit how FUNAI is implementing its mandate, with a view to overcoming paternalistic approaches (A/HRC/12/34/Add.2).

## **3. Guaraní indigenous communities**

70. In Brazil, the Guaraní total between 3,000 and 4,000 persons divided into three different indigenous groups: Mbya, Nhandeva and Kayova. They speak the Guaraní language of the Tupi-guarani linguistic family, and live in states in the south and southeast of Brazil, including Mato Grosso do Sul and Pará.<sup>14</sup>

71. During her visit, the independent expert visited Guaraní indigenous peoples in Mato Grosso do Sul State in the proximities of Dourados and Campo Grande. Two contrasting trends were observed in situ by the independent expert. On the one hand, she observed and interacted with Guaraní communities involved in ongoing land rights disputes. State interventions reported in these communities include the provision of subsidies for families to alleviate poverty and specific subsidies for the elderly. Nevertheless, the community reportedly suffers high rates of suicide and school drop-out, malnutrition, domestic and other forms of violence and alcoholism, together with a lack of self-esteem and the systematic loss of cultural identity.

72. On the other hand, the independent expert observed and interacted with Guaraní communities, which together with religious groups, the academia and the local government have constituted a cultural point (Teko Arandu) in the Aldea Te'yikue in Caarapó, where they teach in their own language and build the capacity of indigenous peoples as video producers and journalists. They have rebuilt places for religious activities in close proximity to schools so as to enable culturally appropriate transmission of cultural heritage, teaching their belief systems to indigenous children and promoting their cultural manifestations, including, sometimes, for tourism.

73. Taking into consideration these contrasting trends, the independent expert encourages indigenous peoples, in line with the recommendation made by the Special

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<sup>14</sup> The Guaraní people also inhabit western Paraguay, northeastern Argentina, northern Uruguay and southeastern Bolivia.



Rapporteur on the rights of indigenous peoples, to endeavour to strengthen the capacities of local communities to control and manage their own affairs and to participate effectively in all decisions affecting them, in a spirit of cooperation and partnership with Governmental authorities and the CSOs with which they choose to work (A/HRC/12/34/Add.2, paragraph 99). Further, a review of the dissimilar impact that programmes have on different communities can provide the basis for tailoring interventions to the specific needs of particular communities.

## **D. The right to profess and practice one's own religion together with the right to enjoy one's own culture: the case of Afro-Brazilians**

### **1. Freedom of religion in the Constitution and the law, and its implementation**

74. The Federal Constitution recognizes the inviolable character of the right to freedom of thought, conscience, religion and belief. It seeks to protect places of worship, religious celebrations and rituals, and the free exercise of religious beliefs. It recognizes that no one shall be deprived of any rights because of religious beliefs or philosophical or political convictions. (article 5, VI-VIII)

75. The Federal Constitution (article 210.1) states that religious education shall be offered as an optional course during normal school hours in public elementary schools. This provision is further developed by Law 9.475 of 1997 (modifying law 9.394 of 1996), which stresses that the implementation of the Constitutional provision should ensure respect for the religious diversity of Brazil and proscribes any form of proselytism.

76. The urgent need for the Federal State not to intervene in, and therefore not to comment on, the content of religious teaching has been stressed by Brazil's National Council of Education, through Decision CNR/97/99. The federated states and municipalities have the prerogative both to define the contents of religious instruction and to establish standards for the qualification and admission of teachers of religion. In most instances, however, this is left to the discretion of teachers and principals, with detrimental consequences particularly for religions of African origin. The dearth of governmental guidance on this matter at the levels of the federated states and the municipalities has led many stakeholders to advocate a constitutional amendment to article 210.1. A number of stakeholders expressed concern at the absence of procedures to formally take up the issues being confronted. Two existing mechanisms mentioned were DHESCA, a CSO platform which has received complaints regarding racism in schools and, in the state of Bahia, the municipal Secretariat of Reparation (SEMUR), which is part of the city administration (*prefeitura*) of Salvador; but neither, it seems, is widely known or utilised.

77. Information received by the independent expert indicates that religious teaching is offered in public schools in at least 11 States,<sup>15</sup> with irregularities to the detriment of the freedom of religion and belief, recognition of Afro-Brazilian religions, and the laical character of the state. Many stakeholders stressed that there is a contradiction between the preamble of the Constitution, which recognizes the laical character of each state, and the de facto compulsory education of religion in some public schools, particularly when the matter is left in the hands of education authorities at the Federated State and municipal levels in a country where religion occupies a privileged place in society, and the majority of the population is Christian. Some stakeholders recommended that materials used for teaching religion in public schools should be submitted for review by academic experts, as is the

<sup>15</sup> These states are Alagoas, Amapá, Goiás, Minas Gerais, Mato Grosso do Sul, Pará, Paraíba, Paraná, Rio de Janeiro, Rio Grande do Sul, Santa Catarina.

case for other teaching materials, and that funds in a laical state should not be used to purchase religious books for schools.

78. Leaving the content of religious courses to be determined by the personal belief system of teachers or school administrators; using the teaching of religion to proselytise; teaching religion as a compulsory, instead of optional course in public schools, and excluding religions of African origin from the curriculum were reported as major concerns that impede the effective implementation of this Constitutional provision.

## 2. Afro-descendant religions and belief systems

79. Stakeholders emphasized that Afro-Brazilian religious communities were a way of life, and that it was essential to keep their traditions and culture alive, in order to rescue, restore and valorise their cultural identity. Afro-Brazilian religions and belief systems were historically subject to restrictive policies at the national level. Persecuted and prohibited at certain times, Afro-Brazilian religions were labelled “superstitions”, “cults” and “witchcraft”; they were regarded as “primitive” and “archaic” manifestations that would eventually disappear. While in situ, the independent expert had access to original documents, dated August 1973 and September 1975, in which the Censorship and Control of Public Celebrations Service (*Servico de Censura e Controle de Diversoes Públicas*) of the Public Security Secretariat had authorized the undertaking of Afro-Brazilian religious celebrations on specific dates within a restricted timeframe. Such permission was considered a major achievement for Afro-descendants at the time. Today, concern was expressed at the differentiated access to State benefits for institutionalized and legally recognised religions that enjoy tax exemptions, and religions of Afro-descent and operating in more informal structures that are not eligible for such benefits.

80. The Government of Brazil is committed to protecting the freedom of religion but should strengthen efforts to combat ongoing discrimination and intolerance. While in Brazil, the independent expert was further informed of cases of religious intolerance against students, families and educational professionals related to the practice of Candomblé, Umbanda and other religions with African roots. Also reported were instances of physical violence against students (punching, and even stoning), forced resignation or removal of educational professionals who are adherents of religions of African origin or who teach the content of those religions; and the ban on the use of certain textbooks. Concern was expressed to the independent expert about the unequal access to school facilities by religious leaders, in particular those related to religions of African origin, as well as inaction to address instances of discrimination or abuse of power by teachers and principals against persons professing religions of African origin. These situations were reported to be conducive to the failure or low performance of students, drop-out or requests for transfer to other schools, as well as loss of self-esteem and cultural identity. Negative attitudes towards such religions devalue all the cultural expressions of these communities, and adversely impacts children.<sup>16</sup>

81. Attacks on persons and sites associated with religions of African origin were reported to have occurred, in some instances, by followers of Pentecostal religions, who use the media to portray religio-cultural Afro-descent groups as “devil worshipers”. Raids and attacks on places of religions of African origin are still occurring in several Brazilian states, as well as provocation and physical aggression against its practitioners. Gender-based violence was a particular concern among Afro-Brazilian communities. Cases were reported

<sup>16</sup> See for example, Relatoria do Direito Humano à Educação. Informe Preliminar Missão Educação e Racismo no Brasil (2010) Eixo: Intolerância Religiosa na Educação, Plataforma Brasileira de Direitos Humanos Econômicos, Sociais, Culturais e Ambientais (Dhesca), 2010.

of police having invaded Candomblé and Umbanda places of worship as recently as 2009.<sup>17</sup> Despite efforts undertaken by the Government to protect the sites and believers of Afro-descendent religions from imminent attacks, it appears necessary for the Government to take a stronger stand and redouble measures to protect them, including by addressing the persistence of racism in Brazilian society and the negative image of African religions that is sometimes diffused by followers of other religions and/or the media.

## **E. The right to use one's own language**

### **1. Endangered languages in Brazil**

82. UNESCO indicates that in Brazil, 97 languages are vulnerable to extinction, 17 are definitely endangered, 19 severely endangered, 45 critically endangered and 12 are already extinct. Information provided by the Government indicates that there are an estimated 150 to 180 surviving indigenous languages in Brazil, out of the approximately 1,200 languages recorded at the time of colonization. Consequently, nearly 85 per cent of native languages have disappeared and with them entire cultural configurations, as well as substantial sources of knowledge and cultural diversity.

83. In the Latin American region, Brazil possesses one of the highest linguistic densities, with one of the lowest demographic concentrations per language. The number of speakers can range from 20,000 (Guarani, Tikuna, Terena, Macuxi, and Kaingang) to a handful or, in some cases, a lone surviving speaker. According to UNESCO, the average number of speakers per language is 200. Yet even those languages with a relatively large number of speakers cannot be classified as "safe", which means that there is no certainty that those languages will remain living languages by the end of this century.

### **2. Main policies and programmes to protect endangered languages in Brazil**

84. The Government of Brazil, in partnership with UNESCO and other stakeholders, has undertaken a number of steps to protect languages at risk of disappearing. Measures taken include a partnership between the Linguistics Division of the Museum Goeldi and UNESCO (2007-2008) to conduct language documentation and build capacity on modern documentation methods in three indigenous groups in the States of Mato Grosso, Rondônia and Pará.<sup>18</sup>

85. A partnership project, based in Rio de Janeiro, between FUNAI, the Banco do Brasil Foundation, and UNESCO to document indigenous languages in Brazil has been launched through the Museum of Indigenous Peoples (*Museu do Índio*), a scientific and cultural agency entrusted with protecting and promoting the culture of indigenous peoples as part of Brazilian cultural heritage. The project seeks to ensure the preservation of existing materials held in private collections, and in public and private institutions, and to document 20 endangered languages. The selection is based on, but not limited to, the following criteria: degree of threat to the language's survival; existence of adequate conditions for the execution of high-level work by teams of competent linguists, which includes indigenous persons in research training positions; a positive response on the part of the concerned communities with respect to the efforts to preserve or reclaim their native languages.

86. The Indigenous Language Documentation Project (*Projeto de Documentação de Línguas Indígenas*) is coordinated and managed by experts and overseen by a scientific

<sup>17</sup> Ibid., p.8.

<sup>18</sup> The beneficiaries of this Project are the Arawak-Paresi communities of Mato Grosso State; Jabuti communities of Rondônia State, and the Ka'apor (Tupi-Guaraní people) of the State of Pará.

committee composed of renowned linguists specializing in Brazil's indigenous languages. Expected outcomes include a social and linguistic diagnostic study; a digital collection with content drawn from audio and video recordings on culturally relevant aspects, including annotations containing at least a transcription and translation of the main points and headings; a dictionary; a basic grammar guide; educational primers, publicity material (videos, CDs, DVDs) and scientific publications.

### **3. Other aspects related to the protection of the right to use one's own language**

87. The independent expert welcomes efforts undertaken in Brazil for the protection of the right to use one's own language, particularly regarding the documentation of indigenous languages and wishes to stress the importance of the revival, strengthening and development of indigenous languages in general and endangered languages in particular. In her view, this major goal should aim to facilitate the provision of culturally appropriate and bilingual education to all indigenous peoples of Brazil, in accordance with the provisions of the Federal Constitution. In this regard, the independent expert encourages the Government, through FUNAI, to compile and disseminate examples of participatory approaches to bilingual education for indigenous peoples, and programmes offering an educational system that is culturally aware of indigenous cultures and cosmo-visions.

88. The independent expert welcomes the adoption of Decree 7.387 of 9 December 2010 to establish a national inventory of the linguistic diversity of Brazil. In this context, the independent expert praises the initiative taken by the University of São Paulo to produce an ethno-linguistic mapping of Afro-Brazilian communities in the states of Minas Gerais and Pará, and invites the Government of Brazil to continue adopting measures to document the existence of and to protect the use of remnants of Afro-Brazilian languages and other languages used in Brazil.

## **V. Conclusions and recommendations**

89. **Culture, its governance, protection and promotion, occupies a central place in the domestic and international affairs of Brazil. A strong legislative and policy framework has enabled important efforts to be undertaken to protect and promote a number of elements of cultural rights in the governmental agenda, particularly in connection with the promotion of culture and facilitating mass participation in cultural activities, as well as in documenting, promoting access to, and preserving cultural expressions and cultural diversity.**

90. **Brazil is to be commended for its projects and programmes aimed at retrieving, revitalizing, documenting and promoting cultural manifestations, and facilitating access to libraries, theatres, cultural centres and museums. These provide a solid basis for further strengthening cultural rights, using the experience of innovative initiatives and the expertise of existing resources in public institutions. In moving forward, it is important to remember that ensuring cultural rights requires that individuals and communities be empowered to create culture as a continuously evolving way of life that is valorized on an equal footing by all. This includes enabling communities to build their self-esteem, to be respected for their values and practices, and to be able to preserve the elements of their culture that they desire to keep, while participating in contemporary Brazilian society. It is equally important to ensure that individuals, groups and communities benefit fully from the cultural expressions they contribute to create. This aspect of promoting and protecting cultural rights requires special attention on the part of the State, as many individuals and communities still do not feel they are fully appreciated as equal participants in national life. Despite progress**

made, in the independent expert's view, a number of challenges remain, and accordingly she wishes to make the following recommendations:

91. The Government of Brazil should consider undertaking comprehensive and State-wide assessments, with the assistance of United Nations agencies, academic institutions, and other stakeholders, as and when deemed pertinent, on:

(a) Successful interventions and innovative approaches so as to extract lessons learnt from implementation, such as the Territories of Identity programme in the states of Bahia and São Paulo that takes into consideration socio-cultural and economic variations in planning, programming and budgeting;

(b) The progress made on access to culture in Brazil, the implementation of goals established for the culture sector, and the remedial measures available so as to establish baselines, and indicators of achievement to facilitate the monitoring of the implementation of the objectives of the National Plan on Culture, which should be specific, measurable, realistic and time-bound;

(c) The impact, lessons learnt, good practices and major challenges related to the implementation of Law 10.639 of 2003, which introduces the compulsory study of general history of Africa and the history of the people of African descent in Brazil, in close consultation with the communities concerned, SEPPIR and the Palmares Foundation, with a view to addressing all factors that stand in the way of its effective implementation;

(d) The impact, lessons learnt, good practices and major challenges, including those that may stem from state and municipal laws and regulations, related to the implementation of the Statute on Racial Equality (Law 12.288 of 2010) and the work undertaken by the National System for the Promotion of Racial Equality (SINAPIR), with a view to enhancing the mandate of SEPPIR and provide it with the human, financial and material resources necessary to carry out its mandated activities, and strengthen its goal to achieve racial equality in Brazil and contributing thereby to the full respect for cultural diversity and the enjoyment of cultural rights.

92. The independent expert encourages Brazil to:

(a) Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(b) Continue adopting all necessary steps to address the concerns highlighted by the Committee on Economic, Social and Cultural Rights in 2009 (E/C.12/BRA/CO/2, paragraphs 26 and 33), particularly by ensuring the wider availability of cultural resources and assets, especially in smaller cities and regions, and ensuring, in this regard, a special provision through subsidies and other forms of assistance for those who lack the means to participate in the cultural activities of their choice; incorporating rights education into the school curricula, in particular those guaranteed under article 15 of ICESCR; taking the necessary measures to combat continued deforestation in order to ensure the effective enjoyment of economic, social and cultural rights, especially by indigenous and vulnerable groups of people;

(c) Address the concerns expressed by the Special Rapporteur on the rights of indigenous peoples, particularly in connection with land demarcation and ensuring indigenous peoples' right to self-determination (A/HRC/12/34/Add.2);

(d) Strengthen efforts to combat ongoing discrimination and intolerance and take a stronger stand and redouble measures to protect persons and sites associated with religions of African origin, by addressing the persistence of racism in Brazilian

society and the negative image of African religions sometimes diffused by followers of other religions and/or the media.

(e) Take measures that enable the documentation and protection of Afro-descendent linguistic heritage to complement existing measures to implement Laws 10.639 of 2003 and Law 12.288 of 2010, and ongoing efforts to sensitize the national population on the protection of Afro-descendent cultures in Brazil.

(f) Undertake participatory processes with communities and persons of African descent with a view to adopting effective measures to address religious intolerance in the education system in Brazil, in line with the findings and concerns expressed by the 2010 mission on education and racism in Brazil, undertaken by the Brazilian Platform on Economic, Social, Cultural and Environmental Human Rights (DHESCA).

93. The independent expert also encourages indigenous peoples, in line with recommendations made by Special Rapporteur on the rights of indigenous peoples, to endeavour to strengthen their capacities to control and manage their own affairs, and to participate effectively in all decisions affecting them, in a spirit of cooperation and partnership with Governmental authorities and the CSOs with which they choose to work (A/HRC/12/34/Add.2, paragraph 99).

94. The independent expert wishes to draw Brazil's attention to the recommendation made by the Special Rapporteur on freedom of religion and belief in his most recent report to the Human Rights Council (A/HRC/16/53, paragraph 60), according to which educational policies should aim to strengthen the promotion and protection of human rights, eradicate prejudices and conceptions incompatible with freedom of religion or belief, and ensure respect for and acceptance of pluralism and diversity in the field of religion or belief as well as the right not to receive religious instruction inconsistent with one's conviction. The independent expert wishes to stress that, in many instances, these are cultural communities with specific ways of life. Efforts should be made to establish advisory bodies at different levels that take an inclusive approach by involving different stakeholders in the preparation and implementation of school curricula related to issues of religion or belief, and in the training of teachers.

95. The independent expert encourages Brazil to consider ways to:

(a) Promote widespread knowledge about existing mechanisms for redress, including the work of the Attorney General's Office of Citizens' Rights and its state and regional branches, and the Council for the Defence of the Rights of the Human Person;

(b) Further strengthen vertical and horizontal coordination in the promotion and protection of all aspects of cultural rights, especially, but not only, institutional links between those working in the fields of culture and education;

(c) Provide the Ministry of Culture with the necessary human, financial and material resources so that it can continue to emphasize inter-sectoral coordination and the expansion of its programmes, projects and priority actions to all states and municipalities in Brazil.

96. The independent expert encourages UNCT to include the promotion and protection of human rights in the next United Nations Development Assistance Framework (UNDAF), which is currently under preparation. She also encourages UNCT to continue supporting efforts for the promotion and protection of cultural rights in Brazil in all UNCT endeavours, including but not limited to, ensuring equal

access to culture for all, cultural heritage, manifestations and the means of cultural expression.

97. The independent expert calls on the mass media in Brazil to uphold their social function and take all necessary steps to:

(a) Avoid the demonization or degradation of cultural communities and persons, particularly those of African descent or indigenous origin, when exercising their obligation to provide impartial information to the general public, and

(b) Contribute to enhancing tolerance and understanding among communities and peoples within Brazil.

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