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种族主义、种族歧视、 仇外心理和一切形式的歧视

当代形式的种族主义、种族歧视、仇外心理
和相关的不容忍现象问题特别报告员
杜杜·迪耶内的报告

增 编 *

对巴西的访问

(2005 年 10 月 7 日至 26 日)

* 本报告的内容提要以所有正式语文分发。报告附于内容提要之后，仅以原文分发。

内容提要

当代形式的种族主义、种族歧视、仇外心理和相关的不容忍现象问题特别报告员于 2005 年 10 月 17 日至 26 日访问了巴西。此次访问的目的是评估巴西的种族歧视情况以及自他上次访问(参看 E/CN.4/1996/72/Add.1)以来政府为打击种族歧视所采取的政策。

特别报告员认为,种族歧视在巴西根深蒂固,在过去五个世纪里影响了整个社会的结构。受这种歧视之害的主要是土著美洲印地安人和非洲人后裔,还有一些来自南美洲和加勒比国家的移徙工人、难民和寻求庇护者。种族主义和种族歧视根深蒂固的结构特性表现在这些社区的人文特征展示了一幅在政治、社会和经济上受排挤的景象。在更深刻的层面上,种族主义涉及到了文化特征问题,具体表现在这样一个矛盾的现象:一方面这些社区的文化和宗教被“编成民间传说”、“编成民歌”,以掩盖种族主义和歧视的现实,另一方面,这些社区在新闻媒体和权力结构与场所却没有代表。

在这一背景下,特别报告员感到欣慰的是,联邦最高当局承认种族主义不仅存在而且根深蒂固,并为打击种族主义通过了一些法律和机制。然而,他注意到,整个社会各级以及一些联邦和地方当局都对这些政策有抵触情绪,在民众当中和某些机构内仍然存在种族主义的意识形态。特别报告员极其关切地注意到,联邦和地方警察的某些成员对非洲裔巴西青年和土著社区进行了大量的暴力和犯罪行为。因此,他提出了一系列建议,以求将政府的政策意愿转化为一项法律和文化双重战略,消除巴西社会种族主义和种族歧视根深蒂固的根源和后果。特别报告员在提出这些建议的同时,希望巴西在打击种族主义方面所取得的进步能对有着相似的历史遗留问题和种族主义盛行的南美洲所有国家都产生深刻和持久的影响。

Annex

**REPORT OF THE SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS
OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED
INTOLERANCE, DOUDOU DIÈNE, ON HIS MISSION TO BRAZIL**

(17-26 October 2005)

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Introduction

1. The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance visited Brazil from 17 to 26 October 2005. He travelled to Brasília, Salvador de Bahia, Recife, Pesqueira, Rio de Janeiro and São Paulo. He assessed the factors of discrimination that affect the population of African descent, indigenous peoples and foreigners, including migrant workers, refugees and asylum-seekers. In this context, he met with President Luiz Inácio Lula da Silva, a number of Ministers and other representatives of the Government at both the national and local levels, the President of the Senate and members of the Parliament, members of the Supreme Court and of the judiciary, non-governmental organizations (NGOs), media representatives, members of various religions, communities concerned and United Nations officials.

2. The Special Rapporteur carried out his visit in very good conditions, thanks to the cooperation and excellent logistics support of the Brazilian authorities. The Special Rapporteur also thanks the office of the Resident Coordinator of the United Nations system in Brazil for its outstanding support, NGOs and members of the communities with which he met for their precious cooperation.

I. GENERAL BACKGROUND

A. Ethnic and demographic situation

3. Brazil has a total population of 169.59 million. The Afro-descendant population comprises 46.2 per cent of the population. The indigenous population, the Indians, estimated at around 734,127,¹ or 0.4 per cent of the population are composed of 220 different groups, speak 280 languages and are spread in almost all regions of Brazil, but the majority of them live in the Amazon area.

B. Historical context

4. The Portuguese arrived in the Brazilian territory in 1500, and found an indigenous population. Since then, this indigenous population has been decimated by centuries of violence, and then by epidemics and diseases caught from the European invader. Brazilian colonial history is characterized by the export of wood, sugar cane, gold and diamonds, which made intense use of the labour of African slaves, brought over by the Portuguese for over three centuries. Brazil received 40 per cent of the estimated tens of millions of enslaved Africans brought by Europeans to the northern hemisphere, the Americas and the Caribbean. Through many episodes of revolt and resistance to slavery, groups of enslaved Africans escaped, creating organized black communities called “quilombos”.

5. Slavery was abolished in 1888. The racial miscegenation that followed between Whites, Blacks and Indians, determined the ethnical and cultural map of Brazil. Brazil became independent in 1822. The republic was proclaimed in 1889 and a federative and decentralized system was adopted. Racism and racial discrimination, ideological pillars of the slave system and colonization, profoundly affected the structure of the Brazilian society. Consequently at the end of the nineteenth century, with two thirds of the population of black African descent, a

policy of whitening of the population was put in place: the State promoted the immigration of millions of white Europeans. A military regime ruled from 1964 to 1985, until Brazil returned to democracy in 1989. The current President, Luiz Inácio Lula da Silva, took office on 1 January 2003.

C. Legal and institutional system

6. Brazil is party to six of the seven major international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. It also ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour Organization, which came into force in Brazil in 2003.

7. Brazil's domestic legal system provides for a clear prohibition of racial discrimination. The Constitution of Brazil of 1988 criminalizes acts of racism subjecting them to imprisonment without the right to bail or prescription. This prohibition is reflected in Law 7716 of 1989 that was later modified by Law 9459 of 1997, which expands its focus to include acts arising not only from discrimination based on race or colour, but also on ethnicity, religion or nationality. In accordance with the Constitution, the new Civil Code of 2003 eliminates discriminatory restrictions on the exercise of civil rights by indigenous peoples, who are no longer considered "relatively incapable citizens".

8. Articles 231 and 232 of the Constitution state the rights of the Indians to the recognition of their social organizations, customs, languages, creeds and traditions, as well as their original right to the land they traditionally occupy. It sets out the duty of the Union to demarcate those lands by 1993, and to protect and ensure respect to this property. Those lands are the inalienable and indisposable property of the Union and Indians have the permanent and exclusive usufruct of those lands. Indians and their organizations have standing under the law to sue to defend their rights and interests.

D. Methodology

9. The Special Rapporteur based his investigation on three main questions he addressed to all interlocutors with which he met: (a) Is there racism and racial discrimination in Brazil? (b) If yes, what are its manifestations and expressions? (c) What are the policies adopted by the Government to fight against it and what should the best solutions from the point of view of the discriminated communities be? In the following two sections, the Special Rapporteur reflects the main policies and programmes reported to him by the governmental and local authorities (sect. II) and concerns and assessment of the civil society and communities concerned (sect. III). Thereafter, he presents his conclusions (sect. IV), followed by his recommendations (sect. V).

II. POLITICAL AND LEGAL STRATEGY OF PUBLIC AUTHORITIES

10. The Special Rapporteur, in seeking to assess the political will to combat racism at the highest level, had the honour and the pleasure to meet with President Lula da Silva. He appreciated the President's frank recognition of the existence of racism and its influence on the mentality and everyday life of Brazilian society and the strong expression of his political will to

eradicate it. The President recognized that the law is not sufficient, assessed the resistance and obstacles to any meaningful change and pointed to the challenge of deeply transforming the current mentalities. In this context, the law on the teaching of African history in primary school was adopted. In the last few years, institutions and programmes specifically in charge of combating racial discrimination were established, including an affirmative action programme in universities and the establishment in 2003 of the Special Secretariat for the Promotion of Racial Equality (SEPPIR). The President admitted that very much still remains to be done.

11. The Minister of SEPPIR indicated that even if it is often veiled, racism is present in society and institutions. Its main manifestation is discrimination in the field of employment, where few Blacks work in private and public institutions at high-level positions. The same happens in political parties, teaching, hospitals, as well as leisure. Also, the representation of Blacks in the media is very negative, and the media do not relay the information SEPPIR provides on its activities for the promotion of racial equality. In the light of the historical entrenchment of racism, eradication efforts should be constant and involve all Ministries as well as the private sector and civil society. What is needed is recognition of racial diversity and equality by the entire society, and compensatory measures and affirmative actions to correct a historically unequal situation. For example, the Ministry for Foreign Affairs has a pilot project providing fellowships to Black candidates preparing for the competitive diplomat recruitment process. Other positive actions include the Ministry of Health's project to include specific health demands from the Blacks into the national health programme. Also, SEPPIR just launched a programme to give value to domestic work, which is almost exclusively performed by black women, and promote the fair treatment of these workers and recognize their right to social security, safety and a decent salary. Finally, she indicated the importance of having appropriate instruments to assess discrimination: SEPPIR promotes the inclusion of racial characteristics in all data collection at the municipal, State and federal level, to have qualitative data on the conditions of life of Blacks and their insertion in public life.

12. The Special Secretariat for Human Rights denounced the killings of many Blacks, especially those young and poor, in the suburbs of the big cities, mainly by police and death squads. Strong measures are needed in this regard. The Special Secretariat also referred to the lack of trained teachers to implement the law on the teaching of African history in primary school. In this context, SEPPIR has signed an agreement with the Ministry of Education for the training of approximately 45,000 teachers at the University of Brasilia in 2006. Finally, the Special Secretariat referred to the need for the Government to invest important financial means to address the huge socio-economic disparities within Brazilian society, which were generated by the gravest form of racial discrimination: slavery.

13. The Special Secretariat for Women referred to the difficult situation of black women, indigenous women and women from quilombos, who suffer the most from the inequalities deriving from racial discrimination. For example, domestic workers, predominantly black women, have no social and economic rights. But discrimination exists at all levels. According to the United Nations Development Programme (UNDP) Human Development Report 2005 on human development in Brazil,² the average monthly income of black women in Brazil in 2003 was R\$ 279.70, against R\$ 428.30 for black men, R\$ 554.60 for white women and R\$ 931.10 for white men. The State of Bahia, with the biggest number of Afro-Brazilians of the country

(80 per cent of the population), is also the one that discriminates most against black women: they earn 40 per cent of the salary of a white man who carries out the same functions. Also, women face more difficulties in procuring identification documents than men, and accessing loans.

14. The Minister of Justice recognizes that racism is deeply rooted in the Brazilian mentality, but public authorities hide it. Today, the political recognition of racism exists together with a good legislative framework, but a change of mentality will be difficult to achieve. Some significant progress has already been made with the affirmative action programmes in the universities. However, the judiciary is very conservative and has integrated racial prejudices. Therefore, an external monitoring programme on the democratization of the judiciary has been put in place.

15. The Ministry of Health is actively collaborating with SEPPIR: they jointly created a Mixed Committee composed of representatives of the Government, black researchers, leaders of social movements, which proposes programmes to the Ministry. It promoted for example, the launching of a programme to fight sickle cell anaemia, which is prevalent in the black population, as well as a programme to train black leaders on how to get involved in this Committee, which is essential for the functioning of the process. A programme to reduce the high mortality rate of black children and women was also established, as well as a campaign to fight against institutional racism within the Ministry. Concerning the sterilization of black women, the problem is being addressed but the situation is still worrisome. Blacks are also the most affected by mental health problems, mainly depression and violence, and by drugs. At the municipal level it is often still difficult to offer proper health services, especially in remote areas.

16. The President of the Senate referred to the Statute on Racial Equality, proposed by Senator Paulo Paim, which provides a harmonized legal framework for the fight against racial discrimination in employment, health, education, culture, and the media. The Statute also establishes a minimum recruitment quota of 20 per cent in universities and public administration, and creates a Fund to finance the implementation of public policies on racial equality. The Statute is supported by communities of African descent and by the majority of the political actors.

17. At the local level, the Governor of Bahia described the programmes carried out by the State of Bahia. In particular, it created a Commission on the black community and is developing a plan for the fight against racism. The State has a centre for excellence in the fight against sickle cell anaemia, it promotes quotas in primary to tertiary education. The Governor expressed a particular concern for the high rate of assassination of Blacks by death squads, in which he admitted the involvement of some policemen: in response, he created a special police unit in charge of fighting against extermination crimes. He also highlighted the fundamental need to better value the presence, culture and religion of the black population: if such value is perceived, racial tensions will decrease. Finally, he referred to a programme for the education of Indians and a specific competition for Brazilian Indian teachers.

18. During the visit of the Special Rapporteur to Salvador, the Mayor inaugurated the Human Rights Municipal Council, with equal representation of local government and civil society, which will allow civil society leaders to participate in the development of municipal human rights policies. Its priority will be fighting against the assassination of young Blacks, after the disclosure of shocking statistics indicating that in the city of Salvador 631 people have

been assassinated in the first eight months of 2005, almost all of them being young Blacks: this is an increase of 19 per cent compared to last years' figures. The majority of these crimes have not been sanctioned. The Council will deal with other issues such as the persecution and assassination of homosexuals, religious intolerance against religion of African origins, the fight for the recognition of quilombos, the improvement of education, health and housing, the demarcation of indigenous land and the eradication of institutional racism.

19. The Governor of Recife, in the State of Pernambuco, indicated that racism is not a pertinent problem of Brazil. Racism exists but is limited, while social disparities and violence are prevalent. He said the country has black idols in football and music, which shows the lack of racism. However, whenever racism occurs, it is denounced and sanctioned. Concerning the policies put in place, a regional conference on racial equality was organized in May 2005, and debates on human rights issues are organized around the country.

20. The representative of the federal police of Pernambuco indicated that racism is rare and limited to a few cases in the State. Brazilians make jokes and this is sometimes interpreted as prejudices. Also, some people try to take advantage of the anti-racism legislation for their own interests. Concerning murders by the police, he indicated that there have been no death squads in the last year and a half. A military police officer killed an Indian in 2005, reportedly: in this context, he regretted that NGOs and the Church always defend Indians without acknowledging that they can also be criminals. Finally, he said he was not aware of any discriminatory treatment of asylum-seekers in Pernambuco.

21. In São Paulo, the Special Rapporteur was informed of the creation in 1993 of a Council for Black Community Participation and Development, at the State level, which gathers the civil society organizations in order to advise the Government on the development of public policy. The Secretary of State for Justice, the first Afro-Brazilian in this position, stated that while racism is generally recognized in the political sphere, the media and the population largely deny it. Racial discrimination is evident in the widespread poverty, hunger, medical and educational exclusion, lack of access to employment, justice and political participation for the black population. It is also manifest in the denigration of religions of African origin. Solutions to these problems must be given within each ministry, State department and municipality. The Secretariat for Justice and its Council work in partnership with the Secretariat for Education on quotas, with the Secretariat for Health in addressing the needs of the black population. It also works on the rediscovery and preservation of the culture of people of African descent, the promotion of a neutral or positive image of Blacks in the media, and the training of teachers and police officers. Finally, the Special Rapporteur noted with great interest that the Secretariat for Justice is creating a police station for racial crimes.

22. The Secretary for Human Rights of the State of Rio de Janeiro referred to the recent emblematic case of the murder by the police of a black man in São Paulo: when it was discovered that he was a dentist, there were great repercussions for the case and the police officers were speedily tried and condemned. This is practically a unique case: for the thousands of other similar murder cases, nothing is done. Rio de Janeiro is the only State that has an external controller for the police, which illustrates the gravity of the situation. In a recent massacre by the police of 29 people, all Black, with one survivor, the Secretariat for Human Rights assisted the external controller in its work and proposed and obtained the adoption by the Governor of a life annuity for the families of the victims. However, turning to sanctions,

according to a survey he conducted in 10 police districts, only 4 per cent of the murders committed are solved, and only for the highest levels of society. The Secretariat assists in the training of police officers, to make them aware of their racist approach.

Quilombos

23. Article 68 of the transitory provisions of the Constitution states that the remaining members of the quilombo communities who occupy their lands have definitive ownership of those lands and therefore the State will grant them the respective property titles. According to other provisions, quilombos should also be protected as “Cultural Afro-Brazilian Territory”. Decree 4887 of November 2003 regulates the process of recognition of the quilombos, recognizing the principle of self-identification of the populations, who themselves determine whether they are part of a quilombo, in conformity with the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

24. The Palmares Foundation, in charge of identifying quilombos and carrying out their legal defence, is very concerned about the increased violence towards these communities. The Government is committed to the process of recognition. Currently 2,250 quilombo communities have been identified and 270 land transfers have been made benefiting 400 communities, as a result of the Programa Brasil Quilombola. The Government, however, does not react sufficiently to the violence surrounding this process, which is perpetuated by landowners who are unwilling to hand over land to the quilombo communities. Also, the judiciary is often not willing to recognize the lands because of racial prejudice: the Foundation is carrying out sensitization activities for the judiciary.

The indigenous communities

25. In 1910, the Indian Protection Service was established to protect the interests of the Indians, which is now called Fundação Nacional do Índio or the National Indigenous Foundation (FUNAI). Its president indicated that FUNAI has five lines of work: (a) Demarcation and consolidation of Indian land. In this field Brazil has progressed more than any other country of Latin America: 22 per cent of the Amazon and 12 per cent of the Brazilian territory is demarcated and registered as Indian land. In some areas problems persist, where Indians have lost their land and are confined to small tracts of land, and local governments are reluctant to give the land back. He concluded that 12 per cent of Brazil’s land is enough and no more can be given to the Indians; (b) Protection of Indian’s health through the Fundação Nacional de Saúde (FUNASA) (National Health Foundation). The section of the Ministry of Health in charge of Indian health, which provides health services in Indian villages; (c) Education: the public system being of a poor level, FUNAI pays the fees of 2,000 Indian students to attend private schools; (d) The promotion of a sustainable economy fostering the survival of Indian villages: on this point, legislation would be needed to allow Indians to exploit their mining resources; and (e) The promotion of the participation of Indians in FUNAI (700 Indians out of 2,000 civil servants) and in public life: presently, Indians manage only four municipalities. There is no Indian parliamentarian or Governor, although there was one Indian Federal Deputy from 1983 to 1987 (Cacique Juruna).

26. Concerning discrimination, the FUNAI president stated that Indians may feel discriminated against in the South, where they may be seen as weird, but in the rest of the country they are well accepted and recognized as part of the nation.

The judiciary

27. According to Vice-President of the Federal Supreme Court, Ellen Gracie Northfleet, and Joaquim Barbosa, the first Afro-Brazilian judge of the Federal Supreme Court, judges need to become aware of their prejudices: measures should be taken, mainly through training, to avoid such prejudices influencing their decisions. Judges already receive similar training in gender discrimination. The Supreme Court does not have many opportunities to debate questions of racial discrimination, since reaching this level is expensive for most cases. However, in the verdict on a recent case involving an anti-Semitic publication, the Court took a clear stance against racial discrimination, stating that freedom of expression does not include the dissemination of discriminatory messages. The Court will soon have a new opportunity to examine this issue in an appeal relating to the unconstitutionality of quotas. The two judges praised the important work done by the Labour Public Prosecutor concerning collective actions.

28. The judges of the Tribunal of Justice of the State of Pernambuco indicated that discrimination is not racial but socio-economical in Brazil. There is no racism based on ethnic diversity, people live together harmoniously and there has been no case of conviction for racism in the tribunal. They indicated that it is rare to see a Black or Indian judge, but not because of racism. The tribunal is now working on the recognition of marriage under the *Condomblé* African religion.

The Office of the Public Prosecutor

29. The Office of the Public Prosecutor is an independent entity in Brazil. It is entrusted with the promotion of justice, but also with the protection of the democratic system. The federal public prosecution office for civil and criminal affairs indicated that the legal system is good yet insufficient. Most worryingly, the implementation of the law is difficult since the idea that discrimination is economic and not racial prevails in public institutions. An experimental project to fight against institutional racism is being launched by SEPPIR, the Department for International Development, UNDP, the United Nations Educational, Scientific and Cultural Organization and the public prosecutors of the States of Bahia and Pernambuco. The federal public prosecutor is also launching a programme to identify institutional racism within its office. As a matter of fact, there are few black prosecutors in the country.

30. The labour public prosecution office is doing a very interesting job in the field of racial discrimination in employment. Based on the fact that the numerous cases of racially motivated refusal of recruitment are difficult to prove (in the history of the labour tribunal, there have been only five cases of convictions for racism), the office launched a project to sensitize the five largest private banks on this issue. An assessment study showed that while black people represent 50 per cent of Brazil's active population, these banks employ 43.7 per cent white women, 37.7 per cent white men, 10.6 per cent black men and 8.1 per cent black women. While

these banks point to the lower level of qualification as the reason for such disparity, the study revealed that black employees have a higher level of education, but lower salaries and a slower career progression. There are almost no Blacks in managerial positions, while some white directors have no university degree.

31. The integration programmes proposed by the labour public prosecution office were accepted by some banks, but there have been no concrete results to date. The office then proposed a quota system, and all banks refused. Therefore, conciliation having failed, the office started collective legal actions against the banks, the first of its kind, on behalf of a collectivity. While these banks have hired the most expensive lawyers for these legal suits, the labour public prosecution office will continue its fight and plans to extend those actions to other sectors of the economy.

32. The State Attorney of Pernambuco pointed out how entrenched racism is in his State: slavery impacted the society and its prejudices still persist in today's mentalities. The main manifestations of racism are the exploitation of black labour, especially black women, as well as the assassinations of young Blacks and economic and social disparities. As a result, the State Attorney's office created a Working Group on Racism, composed of seven prosecutors who train other colleagues on legislation against racism and give more visibility to the issue. This work is done in close partnership with the Unified Black Movement (MNU). In collaboration with MNU, the Working Group also sensitizes the judiciary, which is not very aware of these issues. Cases that the specialized prosecutors identify as racism are seen by judges as simple defamation cases.

III. PRESENTATION OF THEIR SITUATION BY THE COMMUNITIES CONCERNED

A. Afro-Brazilian communities

33. Africans were brought to Brazil as enslaved black people. Many interlocutors, including a number of NGOs and university professors, indicated that slavery still continues today: although it was abolished in 1888, the discrimination, exploitation and marginalization that characterized this system continues today through other means. Slaves, who had all their possessions taken away, were freed without being compensated or given the means to start a decent life. As a matter of fact, today 47 per cent of Blacks live below the poverty line, as opposed to 22 per cent of Whites.³ The entire society, including institutions, is organized from a racist perspective: Blacks are excluded from all sectors of society and confined to the difficult jobs and the lowest salaries, with their basic rights, including the right to life, being violated. Furthermore, their humanity and culture are yet to be fully recognized.

34. Thanks to the persistent efforts of MNU, at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Brazil recognized for the first time that it was a racist country: it recognized the fundamental rights of the black population and committed to affirmative action projects. However, such positive commitment, followed by the creation of SEPPIR and the adoption of various laws, have not yet been translated into concrete changes: one of the reasons is the lack of sufficient funds allocated for the implementation of such policies.

35. Following the increase in killings of young Blacks in Bahia (631 in the first eight months of 2005, 19 per cent more than in 2004), the “React or you will die” campaign was launched in May 2005 by MNU. Blacks, who have been persecuted and eliminated for centuries, feel that an extermination policy is still in place, otherwise so many murders would not have occurred without a strong reaction by the Government and a strong sanction by the judiciary.

36. The population of African descent does not feel protected by public authorities. Young Blacks are persistently taken for drug dealers and criminals: they are constant victims of racial profiling and discrimination. Many testimonies related that the police enter the houses of black families and end up killing someone. Other Blacks are killed in police stations. MNU is requesting a commission of inquiry on the extermination squads in the State of Bahia, and elsewhere.

37. Black women are also subjected to violence. Living in poor areas with very low revenues, they are the victims of drug dealers and domestic violence. They do not denounce their husband, out of fear of violent reactions: some have been burnt or shot by their husbands. Black women are also subjected to violence and exploitation as domestic workers: one fifth of them work as domestic workers, without the protection of labour laws, are underpaid and have no right to social security or other basic rights. Seventeen per cent of them are not paid. Generally in the labour market, black women are paid 40 per cent of a white man’s salary for the same work. Also, around 30 per cent of black women have been subjected to sterilization following a governmental policy. Some mothers live without knowing the fate of their children, as in the case of the mothers of the 11 adolescents from Favela Acari who disappeared in 1993: a military police officer is suspected of having killed them and although some evidence was found, the investigations got nowhere. Some mothers learned that their children had been killed, but no justice was rendered.

38. Half of the black population lives in poverty without access to health services. The mortality rate is much higher for the Blacks than for the Whites, as is life expectancy: 67.87 for Blacks and 73.99 for Whites. In the *favelas*, where 90 per cent of the inhabitants are black, the conditions of life are very poor and degrading, with very limited health services and a lack of teachers. After nursery classes, in the absence of schools, many children get involved with drug dealers in drug trafficking. The level of illiteracy is unacceptably high. The general feeling is that they have no hope of getting a decent education, good schools are unaffordable for them, and there is no chance of later going to university. They are in the hands of the drug dealers and the police do not protect them, but on the contrary, kill them.

39. The Special Rapporteur heard testimonies of assault or insult, such as “the place for a Black is in a cage”, being denounced but getting nowhere, since the police do not qualify these as cases of racism, or in the rare cases when accepted, that qualification is sometimes overturned by the prosecutor. As a result, there is total impunity for racism, notwithstanding the legislation in force. In addition, Blacks are criminalized. Communities believe that institutional violence, institutional racism and the criminalization of Blacks aim at guaranteeing the privileges of the white elite, to continue to exploit the working force of the Black.

40. Black homosexuals suffer from double discrimination, because of their colour and sexual orientation. Also, within the black community, homosexuality is seen as debilitating, as an outrage to the established social order and the image of the black man who is supposed to be

manly. Homosexuals suffer from physical violence, sometimes death (158 homosexuals were assassinated in Brazil in 2004), but also psychological suffering due to the denial of their humanity and identity. The Government has approved a “Brazil without homophobia” policy, to start tackling this problem.

41. On the cultural side, Blacks denounce the manipulation of the black culture for commercial purposes, in particular in Salvador, but also in Rio de Janeiro where the Carnival is not a black celebration anymore, but a show to entertain Whites. A misappropriation of the black culture is taking place. The media are owned by Whites, employ mostly Whites and almost exclusively show Whites on television. When Blacks appear, for example in serials, they tend to play marginalized roles or representations, as in the case of Indians. The Afro-religion *Condomblé* is also very negatively presented. The history of Blacks is not promoted and displayed correctly.

42. Affirmative action is one way of combating this deeply rooted discrimination, according to Black NGOs and representatives: it would allow, through education, access to political and economic power. In 2001, the State University of Bahia launched a programme of quotas for black students leaving public school. This idea was put forward by the Brazilian delegation at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. This programme encountered enormous resistance in the university, the public, the media and the Government. Later on, the Government embraced the idea. Before its adoption, only 1.8 per cent of university students were black, while they represent more than 80 per cent of the population of the State of Bahia. According to the Dean of the University, the quotas have been the first really effective measure adopted since 1888 in favour of the black population, and this action launched the first real debate on racism in the country: before that, racism was ignored and the whitening of the population was so far-reaching that many Blacks denied being black. The Dean of the University, the first Afro-Brazilian woman to occupy this post, has encountered much resistance to her nomination. Characteristically, there is an ongoing legal action against these quotas.

43. In 2003, the University of Brasilia launched a similar programme, supported by SEPIR and the Palmares Foundation, on the basis of which 1,200 black students entered the university. These experiences of the University of Bahia and Brasilia encouraged about 15 other universities to adopt similar policies. The “Universidade para todo” government programme, aimed at providing scholarships for low income students enrolled in private colleges, is a useful tool in combating social and economic discrimination.

44. Another fundamental and related issue is the quality of public education. Affirmative discrimination is needed until the system enables its students (a vast majority of them being black) to have access to university. Members of the Afro-Brazilian community believe that the Government does not reform public schooling because Blacks comprise the majority of the public school population.

45. The Special Rapporteur was informed of positive initiatives within the black community: a number of NGOs and training institutions provide training especially for the youth, sometimes in collaboration with the Ministry of Education or Justice, as in the case of the Instituto Cultural Steve Biko, which in the last 13 years has trained 600 students for entry into university. Other organizations promote the inherited Afro-Brazilian culture, among them the *Olodun* and *Ile Aye*

groups which focus on revitalizing the Afro-Brazilian identity and creativity, and demystifying the racist prejudice against Blacks. In Rio de Janeiro, in Favela da Maré, the Ação Comunitária do Brasil NGO runs a very innovative socio-educational project of assistance and training of children, adolescents and adults to develop their self-esteem based on their Afro-descendant origins and their artistic and professional capacities, in order to promote their insertion in the labour market. It opens otherwise inaccessible and unexplored avenues for the future of the inhabitants. In addition, the linkage of artistic creativity and social and economic development is used in solutions to today's societal problems, such as recycling. For instance, industrial waste is used to create furniture, art and other objects. The Special Rapporteur wishes to pay tribute to the creative ideas generated in Favela da Maré.

Terreiros

46. Terreiros are religious communities that practise Condomblé, which are religions of African origin, brought to Brazil by the enslaved Africans. They are allegedly suffering from recent campaigns by Christian neo-evangelical groups, which are spreading the message that they are linked to evil. The significant financial means of these groups facilitate their campaigns and put pressure on members of the terreiros to convert, as opposed to the very limited means of the terreiros, which cannot effectively react to these campaigns. As a result, children are discriminated against in school if they state their religion, and the same happens to adults. The Pentecostal movement threatened the leaders of some terreiros and assaulted Condomblé worshippers. The police do not protect them and are, on the contrary, aggressive with them. Terreiros feel they are victims of clear manifestations of religious intolerance and institutional racism.

Quilombos

47. The Special Rapporteur received testimonies of a number of inhabitants of quilombos who are facing considerable difficulties in securing ownership and recognition of their land, and are also living in insecurity and extremely precarious social and economic conditions. Many cases of such violence and precarious conditions were presented to him. For example, the community of the Piraña Quilombo was expelled and almost exterminated by settlers who invaded their village. The survivors were left with only two hectares of land, and had to rely mostly on fishing to survive. Finally, the municipality also obstructed the access of the community to the lagoon and the village. At the same time, the settlers contaminated the lagoon with sewerage, which caused cholera and other severe health problems for the quilombo community. The Ministry of Health confirmed that the inhabitants can no longer eat the fish from the lagoon.

48. The Piraña community asked the Palmares Foundation to provide recognition of their land. After they received the Foundation's certificate of identification, the Piraña Quilombo was attacked by the settlers. Their leader escaped. Despite continuous attacks, the Mayor is not willing to take any protective measures since he also feels threatened. The leader of the Piraña Quilombo whom the Special Rapporteur was able to meet, is now protected by the Palmares Foundation but cannot freely circulate or go back to his community. While waiting to get its property title, his community, which is 80 per cent illiterate, lives in fear, with almost no access to their land, and little food or health services.

49. The Quilombo Parateka has also received several death threats from the killers hired by the farmer who occupies their land. Even the prosecutor and the lawyers, were threatened during an audience on the case. Since five people have already been killed in the area, without anyone being sanctioned for the murders, the quilombo lives in fear. Without land to cultivate, and without food, many members were obliged to leave their community to find jobs to survive. Their lives are in the hands of the landowners and farmers, and they feel as if they are still slaves, without any rights. Despite the 2003 Presidential decree recognizing their rights as citizens, the acts of violence against them have increased.

50. In addition to the lack of recognition of their land, quilombo communities feel abandoned, as they are not provided with basic health, education and security infrastructure. Tourist operators invade their land damaging it severely with pollution and high levels of noise, gravely affecting the health of their population. The Federal funds allocated to the municipalities never reach them. Even when the quilombo gets the property title, it is the municipality that is in charge of managing the projects in areas such as housing and health and such projects are not always carried out.

B. Indigenous communities

51. According to the latest Brazilian Institute of Geography and Statistics (IBGE) census of 2000 quoted by a number of NGOs, there are 734,127 indigenous peoples in Brazil. They were estimated at around 3 million in 1500 when Brazil was invaded. One thousand three hundred indigenous groups were totally eliminated and 235 are left today. Racism and discrimination have since prevailed against them, the most lasting manifestations of which are poverty and violence. Consequently, 383,298 (52 per cent) were obliged to abandon their land and live in the suburbs of large urban centres. The remaining 350,829 (48 per cent) live on their lands with daily socio-economic precariousness and insecurity. According to IBGE, while 15.5 per cent of the Brazilian population lives in extreme poverty, among indigenous people such percentage reaches 38 per cent. A process of destruction of the indigenous economy, way of life and identity accompanied the invasion of their lands. The President of FUNAI himself repeatedly denied indigenous identity to a part of the indigenous population, in violation of the right to self-identification of indigenous peoples recognized by the Constitution and the Indigenous and Tribal Peoples Convention, 1989 (No. 169).

52. According to the data provided by the Indigenous Missionary Council, the largest NGO dedicated to the protection of Indians, there are 842 indigenous lands in Brazil. While the Constitution ordered the demarcation of all Indian land by 1993, at the end of 2005 only 37 per cent of these lands have seen the demarcation procedures finalized through registration. For the rest, some of them are in the process of being demarcated and another 229 have not at all been taken into consideration by FUNAI. While President Lula da Silva during his electoral campaign, set out a strategy to tackle the conflicts and human rights abuses that affected the Indians for so long, it appears that his Government initiated only few demarcations of new land and did not proceed to the promised reforms and restructuring of FUNAI. Representatives of indigenous movements regretted that they have only been received once by the President in three years of government, and only after having occupied Congress in protest in April 2004.

53. The Special Rapporteur visited Indian communities in Pernambuco to witness their living conditions and received their direct testimonies of social marginalization, economic deprivation and extreme police violence. He met leaders of the Xukuru, Truká and other groups, who had themselves been the victims of murder attempts, or whose fathers, spouses or sons had been assassinated. Thirty-three Indians were murdered from January to September 2005, while there were 22 murder attempts and 12 cases of death threats. In the recent case of the appalling murder of the Truká leader and his adolescent son in June 2005, which occurred in front of their family and community, members of the police have been publicly identified as the murderers. However, no arrest or investigation has taken place so far to sanction the murders, while the federal police is investigating an alleged crime of resistance by the murdered Indians. This murder seems to be linked to the opposition of the Truká to the deviation of the river San Francisco, which would gravely endanger the survival of the Truká community on their ancestral land. This is the last in a series of murders since 1984, when the Truká decided to return to their land: the military police then started an open confrontation with them, with a first assassination in 1986 and the criminalization of the Truká which started in 1994. In 1999 the Truká recuperated another part of their land and were declared, the following year, the primary producers of rice for the State, which was repeated for the next five years. Today, all Truká leaders are criminalized by the federal police. In this extremely precarious context, FUNAI does not protect them.

54. The Xukuru land was recognized as indigenous land, with many difficulties, because of the attraction of their beautiful territory for investors. After several appeals against that recognition, the federal justice authorities finally recognized the rights of the Xukuru to their land. The father of the current Xukuru leader, who was also the previous leader, was assassinated in 1998. The current Xukuru leader received numerous death threats and escaped an ambush in 2003, in which two of his friends were killed. He has not received protection, despite a request for protective measures by the Inter-American Commission on Human Rights. Several members of the community are persecuted by the police and the judiciary. Other Indian communities with which the Special Rapporteur met are facing the same situation of violence while requesting without success the assistance of FUNAI for the repossession of their land.

55. In addition, basic services are lacking in Indian communities. Health services are extremely poor: few doctors are available in neighbouring towns, medicines are not available and months pass before a member can get an examination. FUNASA is responsible for the health of the Indians, but the system does not work, its actions are entrusted to the municipalities, or NGOs, without coordination, and services do not reach the communities. Child mortality is much higher than the national average: many die from lack of health care or undernutrition. Also, due to the very harsh conditions of life, the lack of perspective and the humiliation and violence suffered by the Indians, the rate of suicides is high.

56. The lack of appropriate education is a major concern. The regulation of 1999 concerning indigenous education creates the categories of indigenous schools and teachers, transfers the responsibility of primary education to the State, reaffirms the duty of the State to consult with the indigenous communities before taking any decision, recognizes the right to a specific calendar, and allows Indian leaders to participate in the development of educational programmes. However, the implementation of such provision is extremely difficult. For example, in Pernambuco, the State has no such educational policy, has established no system of consultation with Indian leaders, has trained no teachers, and most worryingly has no understanding of the

constitutional right to cultural diversity, which provides for the adaptation of each educational system to the lifestyle of each community. As a result, there is currently no differentiated education, infrastructures are very poor and the few assigned teachers have temporary contracts and are underpaid.

57. The Special Rapporteur also met with representatives of the Krahô/Kanela group, which migrated there in 1924 and settled in lands called Mata Alagada, in the State of Tocantins, in 1963. In 1984, the Krahô/Kanela were violently expelled by a private company which allegedly claimed ownership of that land. After living for some time in the streets, the group was transferred by FUNAI to another indigenous land, awaiting the settlement of the issue of the Mata Alagada land with the private company, while parts of the group scattered. In 1999, they were again moved to other lands, while FUNAI refused to recognize them as being Indian. After prolonged pressure by human rights NGOs, FUNAI started the process of identification of the land requested by the Krahô/Kanela. In September 2004, the anthropologist designated by FUNAI identified the land as their indigenous land, but the President of FUNAI did not launch the demarcation process. After having been expelled and moved several times, the Krahô/Kanela today live in a small, filthy parcel of land. They have very poor access to food since the land is not arable. According to FUNASA doctors, 80 per cent have serious health problems. They cannot practise their culture for lack of space and fear of hostile behaviour of the local population. They have been asking FUNAI for the last 10 years to be allowed to return to their land, but FUNAI is continuing to act against their interests. The Krahô/Kanela also proposed a programme for the enhancement of their culture and traditions, which was refused.

58. Indigenous peoples feel abandoned and persecuted by public authorities: on one hand there is a total lack of dialogue with the Government, and on the other hand a conflictual relationship with FUNAI. The President of FUNAI asserts that the trusteeship regime still exists, in blatant violation of the law, makes discriminatory statements against the Indians, decides who is Indian and who is not in violation of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and does not provide the assistance required. Finally, the police threaten and kill leaders and members of the Indigenous communities and the judiciary largely keeps guaranteeing the impunity of the police, while criminalizing the actions of Indian leaders.

C. Migrants, asylum-seekers and refugees

59. According to the Office of the United Nations High Commissioner for Refugees (UNHCR) in Brasilia, there are 3,000 refugees in Brazil, of which 2,500 are Africans who are victims of the same discrimination suffered by Brazilians of African descent, as confirmed by a number of NGOs. Considerable progress was achieved in 1997 with the adoption of a new law on refugees and the creation in 1998 of a National Committee on refugees. In 2004/05 for the first time microcredits for refugees were established. A major problem is the treatment of refugees at the border: since border agents receive no specific training, refugees are discriminated against and their rights are violated. UNHCR is providing such training, together with SEPIR.

60. Discrimination does not occur so much in terms of granting of refugee status, but in terms of integration, in relation to education and housing, as for the black Brazilian population. Between November 2003 and July 2004, a flow of asylum-seekers arrived in Pernambuco through Recife: according to several NGOs, the 27 asylum-seekers of African origin were

treated differently from the others of white origin. They were illegally mistreated and imprisoned until the time of their repatriation. They were neither given the right to defence, and interpretation, nor were they informed of their rights. Only two were given the status of refugee because they had a document from the Red Cross identifying them as politically persecuted. The others were summarily deported, without a fair process assessing whether they would be persecuted if repatriated. The law regarding foreigners dates from the military period. In September, the Government prepared a bill that will hopefully be submitted to Parliament in 2006. The major claims relate to the possibility for foreigners to get documents and the applicability of the statute on children to children of illegal migrants and refugees.

61. The Special Rapporteur met with the Bolivian, Paraguayan and Peruvian community in São Paulo where around 150,000 non-Brazilian Latin Americans live. They feel discriminated against in their daily life, and are seen and treated as inferior, mainly because of the negative image portrayed by the media, which depicts them as criminal and uncivilized people. Latin Americans are mainly employed as illegal workers in Brazil, due to restrictive immigration law. As a consequence, Latin Americans lack the freedom to freely move about and live in constant fear of the police. They also lack appropriate access to health services. Their main concern, however, is the difficulty of sending their children to school. A lack of correct documents causes many to be refused by schools. A bilateral agreement between Bolivia and Brazil provides for the payment of R\$ 828 per person for the procurement of legal papers, but with their meagre salaries Bolivians need to work for years in order to legalize one family member. This means that their children have no education and no future. Some cases of forced labour, in particular by Korean employers, have been mentioned. It appears that some Latin Americans are discriminated against because of their indigenous origins.

62. The Special Rapporteur met with the Japanese community in São Paulo, which claims to be very well integrated and respected. The Japanese are able to freely practise their religion and culture, and 65 per cent of Japanese marriages are mixed.

IV. ANALYSIS AND CONCLUSIONS OF THE SPECIAL RAPPORTEUR

63. After having collected and analysed the views and information from all parties concerned, the Special Rapporteur reached the conclusion that racism and racial discrimination are profound realities in Brazil. The founding of the system of slavery on racist intellectual and ideological pillars, describing the enslaved Africans as culturally and mentally inferior, in order to legitimize their status as an economic good, as defined by the “black codes”, and the legal organization of slavery by the European powers, have profoundly impacted the mentalities and societal structures of all the countries in the hemisphere, including Brazil, which received 40 per cent of the enslaved Africans.

64. The Special Rapporteur noticed that the manifestations of the historical legacy of racism and racial discrimination still prevail throughout the society. The most striking manifestation is the virtual identity of social, economic and political marginalization with the map of the discriminated communities of indigenous and African descent communities. This manifests persistent structural and systemic racism and racial discrimination. Travelling in Brazil is like moving simultaneously between two different planets, from that of the lively coloured and mixed races of the streets to that of the almost all-white corridors of political, social, economic and media power.

65. The Special Rapporteur noted the almost complete lack of representation of Blacks and Indians in State institutions. In Bahia State, for example, Afro-Brazilians constitute the majority of the population and their cultural and religious vitality illustrates the Brazilian identity, which is proudly displayed nationally and internationally, yet they are not visible in the highest levels of city and State power. This is striking. The State of Bahia confirms the fact that in a situation of profound systemic discrimination, cultural promotion does not necessarily result in political participation. On the contrary, cultural promotion is in fact used as a disguise, a mask behind which is hidden the de facto social, economic and political discrimination and exclusion suffered by these communities.

66. Racism and racial discrimination are more deeply cultural and historical in nature and touch the central issue of national identity. The Special Rapporteur noted with concern the lack of a national memorial on slavery, which appears as a denial of the place of slavery in the national memory of the country. In the same spirit, the over-exploitation of the Afro-Brazilian and indigenous heritage and culture for tourism without meaningful social and economic benefits, is a source of profound frustration and alienation for their communities. More recently, their spiritual and religious traditions are being threatened by the unchecked aggressive proselytism of some powerful evangelical groups. The process of profound destruction of the cultures of the Indigenous peoples can be seen in the slow disappearance of their languages.

67. The Special Rapporteur notes with satisfaction the recognition by the federal Government of how deeply rooted racism is in Brazil and its effects on the structure of the entire society since it was founded. He also notes that a promising legislative framework including programmes, mechanisms and institutions have been put in place to combat racism and racial discrimination. He notes however, with concern, the resistance to the federal Government policies within the society, within the Governments and the judiciary at the State level, where the ideology of racial democracy still determines perceptions and policies.

68. Accordingly, recognizing the determination of the Government to eradicate all forms, manifestations and expressions of racism and racial discrimination, and with the view of strengthening its political will and enlarging its promising policies, the Special Rapporteur submits to the Government, in the following section, a number of recommendations relating to its political and legal strategy, but also the need of an intellectual, cultural and ethical strategy in order to eradicate the deeper roots and manifestations of racism and racial discrimination, which are debilitating the political, human, social and economic future of Brazil.

V. RECOMMENDATIONS

69. **Much depends on the success or failure of the Government of Brazil in eradicating racism and racial discrimination, not only in terms of the strengthening of democracy, and social and inter-ethnic harmony in Brazil but also for all countries of the South American region with similar historical legacies of racism and racial inequalities. Unrecognized by most of these Governments, racism and racial discrimination are still prevalent to different degrees and are deeply rooted in their societies.**

70. **Given the historical, social and cultural entrenchment of racism and racial discrimination, efforts to combat and eradicate their roots, manifestations and expressions should be undertaken as a process of national catharsis in two key steps:**

(a) The establishment, as a national and collective catharsis, of a national commission on truth and reconciliation on racism and racial discrimination with a mandate to assess the manifestations, expressions and consequences of racism and racial discrimination in Brazilian society. This commission should be composed of representatives of all communities and political parties, and eminent members of civil society engaged in the promotion of human rights and racial equality. The proceedings of the commission should be largely publicized to allow members of the Brazilian society to be collectively informed of the scope and manifestations of racism;

(b) The Government should translate the conclusions and recommendations of the commission into a comprehensive national programme for the eradication of racism and the promotion of racial equality in Brazilian society, on the basis of the Durban Declaration and Programme of Action. This national programme, integrating the National Policy for the Promotion of Racial Equality, should be tailored to aim at all political, economic, social and cultural dimensions of the society, and national, regional and local levels in the country. It should include the best ways and means to expand the programme of affirmative action at all levels of the society. The national Parliament should be invited by the Government to debate and approve the final programme and allocate the necessary resources for its implementation.

71. The Special Secretariat for the Promotion of Racial Equality, whose creation is a positive step, should be strengthened as a full federal department at the centre of the federal Government, with offices in all regions, in charge of coordinating the national programme with the necessary resources and authority in all the government departments. All ministries should therefore be involved in this effort, and make the fight against racial discrimination part of their policies.

72. A national commission for equality and human rights should be established, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134, annex). Given the interlinkage among all forms of discrimination, and for the purposes of efficiency and empowerment, the mandate of this commission should examine in a holistic way, the most important and related fields of contemporary discrimination, namely: race, colour, gender, descent, nationality, ethnic origin, disability, age, religion and sexual orientation.

73. The prevention and repression of violence against Indians and Afro-Brazilians, in particular assassinations, should be a priority of the Government and addressed as a matter of urgency. Appropriate measures should be taken to sanction in the strongest way, police officers and others responsible of assault and murder of Afro-Brazilians and Indians.

74. A specialized police unit should be established for the protection of vulnerable groups such as Indian communities, Blacks, quilombo communities, and terreiros, following the example of the Secretariat for Justice of the State of São Paulo.

75. Regarding the judiciary, the following should be undertaken:

(a) The Ministry of Justice should create specializations in racism and racial discrimination within the tribunals and the prosecutors' offices, to enhance the degree of implementation by judges and prosecutors, of the existing anti-racism legislation. The specialized prosecutors within the Working Group on racism in the State Attorney's office of the State of Pernambuco would be a positive example to follow;

(b) Regular training of judges and prosecutors on this issue should be organized;

(c) A system of control should be established in the judiciary to monitor the prosecution of the racially motivated violence and crimes against these groups.

76. The Office of the Public Prosecutor should be given investigative powers. At present, only the police carry out investigations, and prosecutors have almost no leverage in qualifying the facts submitted to them. This system is not appropriate in a setting where many police officers are involved in such crimes.

77. The Government should urgently commence the training of teachers in order to implement the law on the teaching of African history in schools. Teachers of all subjects should receive this training. The regional histories of Africa drafted by United Nations Educational, Scientific and Cultural Organization could be used as a reference text.

78. A national memorial on slavery should be erected, to pay tribute to the millions of victims and preserve the memory of the Afro-descendant component of Brazilian history.

79. While acknowledging the commitment of the Government to the recognition of the quilombos, the Special Rapporteur on contemporary forms of racism, racial discrimination and related intolerance recommends that the Government should:

(a) Undertake a census of the quilombos to assess the living conditions and the degree of recognition of the quilombos land;

(b) Proceed urgently to the recognition and handing over of property titles to the quilombos;

(c) Urgently organize appropriate security for the quilombos communities and their leaders;

(d) Guarantee the provision of fundamental goods and services such as food, health, housing and education;

(e) Consider giving directly to communities the financial resources allocated for the development of quilombos, since according to allegations, these resources do not reach the quilombos;

(f) Create teaching tools on the quilombos in order to give more visibility to their history and emphasize their identity as part of the living memory of the history of the country.

80. **The Special Rapporteur recommends that:**

(a) **The decree on the recognition of the quilombos be maintained and fully implemented;**

(b) **The Palmares Foundation should be strengthened in terms of authority in all government departments and financial resources, in order to carry out its fundamental role of identification and protection of the quilombos.**

81. **Concerning the indigenous communities:**

(a) **The protection of Indian leaders and communities must be ensured;**

(b) **The system of provision of health care should be revised in consultation with Indian communities, in the light of its inefficiency;**

(c) **The Government should allocate appropriate resources in order to allow the implementation of a differentiated indigenous educational system, as provided for in Regulation 3 of the National Council for Education;**

(d) **A parliamentary commission on the violence perpetuated against Indians over their lands should be established.**

82. **Concerning Fundação Nacional do Índio (FUNAI) or the National Indigenous Foundation, the Special Rapporteur recommends that:**

(a) **FUNAI should be headed by a person fully recognized and respected by the majority of the communities, and preferably as a meaningful message of confidence and empowerment, an indigenous personality. The Government is strongly encouraged to look into this matter, in consultation with the Indian communities;**

(b) **FUNAI should receive sufficient additional funding in order to be in a position to complete the demarcation and registration of land within 2007;**

(c) **The staff of FUNAI should comprise in a meaningful way, qualified members of the Indigenous communities on the basis of a careful geographic and ethnic balance.**

83. **Domestic workers, of which 90 per cent are Afro-Brazilian women, should benefit from legal recognition and protection, and be included under the protection of the labour legislation.**

84. **The Government should find appropriate affirmative action means to guarantee political representation of the Black and Indian communities in State institutions.**

85. **The Government and the Parliament should take action to impede and sanction the ongoing attacks and defamation against Afro-descendant religions. In this context, an interreligious national institution should be established, in charge of promoting dialogue and tolerance between religions and fighting against racial and religious discrimination and proselytism.**

86. The media should reflect in their structure, management and programmes the rich cultural and ethnic diversity of the Brazilian society and promote a culture of reciprocal knowledge and interactions. The Government should promote and support the creation of community media for the indigenous and Afro-Brazilian communities.
87. Initiatives such as the socio-educational project for children, adolescents and adults carried out in the *favelas*, such as the one by the NGO called Ação Comunitária do Brasil in the Rio de Janeiro Favela da Maré, should receive financial and other support from the Government and local authorities and should be promoted in other *favelas* and indigenous areas.
88. The Government should adopt appropriate measures to guarantee that immigration and other relevant authorities treat asylum-seekers and refugees according to international provisions and standards, in full respect of their rights as asylum-seekers and refugees, and are not discriminated against because of their race or origin.
89. The Government of Brazil is encouraged to continue its strong support for the activities of the Organization of American States to combat racism and racial discrimination, in particular the drafting of an inter-American convention against racism and the follow-up activities to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Special Rapporteur is willing to participate in such activities. In this spirit, the Government of Brazil is encouraged to share with Governments of the region, its political will and its policies and programmes to combat racism and racial discrimination.

Notes

¹ Brazilian Institute of Geography and Statistics (IBGE), Demographic Census 2000.

² Relatório de Desenvolvimento Humano, Racismo, pobreza e violencia, Brasil 2005, United Nations Development Programme Human Development Report, 2005.

³ Data from 2001, quoted in UNDP Human Development Report, 2005.
