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BRAZIL

<p>Pre-session/session & type or reporting procedure</p>	<p>98 Pre-Session (27 May 2024 – 31 May 2024). Traditional reporting procedure</p>
<p>State Report</p>	<p>Combined fifth to seventh periodic reports (Brazil). 3 May 2021. CRC/C/BRA/5-7</p>
<p>Legal and practical analysis on the child protection, alternative care and adoption systems</p>	<p>ISS/IRC will provide an Annex during the additional information/submissions phase, before the session, which will encompass the factual examination of the legal and practical aspects of the alternative care and adoption system.</p>
<p>Challenges and gaps</p>	<p>Alternative care</p> <ul style="list-style-type: none"> • The concrete implementation of measures and procedures are under the responsibility of the states and the municipalities which often lack financial resources and/or political will and have to face corruption issues (Transparency International ranked Brazil 104/180). This disparity in resources and governance capacity impedes the consistent application of child protection policies and compromises the quality of care provided to vulnerable children. • Despite significant progress over the past two decades, a notable gap persists in incentivising, aligning financial resources, and methodologically supporting prevention and family care policies at the federal level. This lack of cohesive support from the federal government hampers the sustainability and effectiveness of efforts aimed at strengthening family-based care and preventive measures (source: ISS/IRC local contact). • Residential care is still the most common alternative care option, with more than 4,700 institutions throughout the country hosting 30,964 children (State Report, paras. 81 and 83). • Despite clear guidelines and relevant instruments, such as the National Plan for the Promotion, Protection and Defence of the Right of Children and Adolescents to Family and Community Life (PNCFC), the sustainable development of foster care programmes is still lacking. Only 7% of children and adolescents are sheltered through family-care (source: ISS/IRC local contact; Parliamentary Observatory of the Universal Periodic Review, 2022). • There is a significant deficiency in the oversight and monitoring conducted by the National Council of Justice concerning the duration of children's stays in residential care facilities. This oversight gap leads to a concerning trend where a considerable number of children remain in these facilities for extended periods, exceeding the recommended 18-month limit (Art. 19 §2 ^aA, Estatuto da Criança e do Adolescente). According to the State report (State report, paras. 84-85), approximately 10% of children exceed this timeframe, with over 6000 children enduring stays lasting more than three years. • Instances of human rights violations, including violence and abuse, have been extensively documented within institutions, affecting particularly vulnerable groups such as children

with disabilities ([Human Rights Watch, 2021](#); [CRC/C/BRA/CO/2-4](#), para. 45; [UPR Stakeholder's information](#), 2022, para 64). This alarming trend underscores a critical gap in safeguarding the rights and well-being of children residing in institutional settings.

Adoption

- The adoption procedure may vary a lot from one State to the other, also due to the fact that some steps of the adoption procedure are still not clearly described in the law.
- Strong disparities between Northern and Southern States in Brazil can be observed, notably with regards to the implementation of the subsidiarity principle. In some States, where domestic adoption is well promoted and thus the subsidiarity principle correctly implemented, intercountry adoption (ICA) is clearly a measure of last resort (as per ISS/IRC statistics, 337 ICAs were recorded in 2012 and only 37 in 2022 in Brazil). However, in some other States with a high number of children in need of adoption, programmes promoting domestic adoption still need to be further developed.
- Concerns about past enforced disappearances of children resulting in adoption or placement of children and the absence of procedures to review and where appropriate annul or revoke these adoptions/placements and re-establishing their identity ([CED/C/BRA/CO/1](#), 2021, paras 34 and 35).
- Despite the legal framework established to protect the rights of Yanomami children and adolescents, there is evidence of systematic violations, including the removal of children from their families for adoption, contributing to their disconnection from their cultural and community ties ([National Movement for Family and Community Coexistence](#) (MNPCFC), 2023).

Possible questions for the dialogue

Alternative care

- What are the envisaged measures to extend the number of children benefitting from foster care in Brazil? How does the government plan to address the challenges hindering the expansion of foster care programs?
- How does the government plan to reduce the number of institutions and effectively deinstitutionalise in line with international standards? Can you elaborate on specific strategies and measures to transition children from residential care to family-based care settings?
- What concrete measures are being implemented to prevent children from staying in residential care for more than 18 months? How will the National Council of Justice strengthen its monitoring mechanisms to ensure compliance with this timeframe and improve data accuracy on children in care?
- What initiatives and measures are currently being undertaken by the State Party to foster a broad spectrum of competencies and skills among institutionalized youth, with the goal of enhancing their prospects for independent integration into both society and the workforce?
- How does the State plan to address instances of human rights violations, within institutions, particularly considering the vulnerability of children with disabilities, and ensure the effective protection and well-being of all children in institutional care?

Adoption

- How does the State ensure proper application of the subsidiarity principle across Brazilian states? What initiatives are in place to promote uniformity and consistency in adoption procedures nationwide?
- How is domestic adoption promoted nationwide? Can you provide insights into successful strategies and initiatives aimed at encouraging domestic adoption, particularly in states with lower adoption rates?
- What legal recourse is available in cases of illicit practices or illegal acts discovered after an adoption? How does the government plan to enhance transparency and accountability in adoption processes to safeguard the rights and well-being of children?

	<ul style="list-style-type: none"> Considering the reported violations of Yanomami children's rights (see previous section), what specific measures is the state implementing to prevent family separation within Yanomami communities, thereby safeguarding the cultural and familial ties?
<p>Possible recommendations for the State party</p>	<p>Alternative care</p> <ul style="list-style-type: none"> To strengthen families and prevent unnecessary separation, it is imperative for the government to significantly increase investments in vulnerable families. This entails implementing integrated social policies that prioritise access to essential resources such as food, healthcare, education, employment opportunities, and income support. By addressing the multifaceted needs of families, particularly those facing socio-economic challenges, such comprehensive support measures can enhance family stability and resilience, thereby reducing the risk of child separation and ensuring the well-being and development of children within their familial environment (International Center for Research and Policy on Childhood, CIESPI, Pontifical Catholic University of Rio de Janeiro, 2021). Ensure the prompt implementation of foster care programs nationwide, allocating adequate human, technical, and financial resources. Prioritise family-based care settings, particularly foster families, over institutionalized placements to provide children with nurturing environments conducive to their well-being and development. Additionally, establish comprehensive support mechanisms to assist foster families in meeting the diverse needs of the children under their care (CRC/C/BRA/CO/2-4, para. 46). To ensure the suitable care and well-being of children in alternative care settings, it is imperative for the Brazilian government to implement comprehensive measures aimed at enhancing the competency and capabilities of childcare workers. Building upon existing recommendations such as those outlined in CRC/C/BRA/CO/2-4 (2015), the government should prioritise the implementation of competency-based criteria for the selection, training, support, and evaluation of childcare workers. This involves developing rigorous screening procedures to identify candidates with the requisite qualifications and commitment to providing high-quality care, as well as establishing clear guidelines for ongoing training and professional development. <p>Adoption</p> <ul style="list-style-type: none"> Implement measures to ensure the consistent and uniform application of the principle of subsidiarity across all regions in the adoption procedure. This includes establishing clear guidelines and training programs for adoption professionals to uphold the principle effectively. This would also entail enhancing the support to the family of origin within adoption processes. Launch comprehensive awareness campaigns and educational initiatives to promote domestic adoption as a stable and preferred measure for children permanently deprived of parental care. This entails highlighting the benefits of domestic adoption, dispelling myths and misconceptions, and providing support services to all the parties within the adoption triad. Develop transparent and accessible procedures to address cases of enforced disappearances and illegal adoptions, ensuring that affected individuals can have their cases reviewed and, where appropriate, annulled. This should include mechanisms for reestablishing identities and providing necessary support services to individuals affected by such practices, facilitating their access to justice and restoration of rights.