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OHCHR REGISTRY

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to its Note Verbale n. 180, of 18<sup>th</sup> February 2010, has the honour to enclose herewith relevant information for the preparation of a study on the rights of the child in the context of migration, pursuant to Human Rights Council resolution 12/6. This information can be made available on the OHCHR website.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, April 30<sup>th</sup>, 2010

To the  
Office of the United Nations High Commissioner for Human Rights  
Geneva



**Permanent Mission of Brazil to the United Nations  
Chemin Louis Dunant 15, 1202  
Geneva, Switzerland**

**Subject: Human rights of migrants: migration and children's rights**

This note aims at answering the inquiry from the United Nations Office of High Commissioner for Human Rights on challenges and best practices on child protection in the context of migration.

Brazil has traditionally been a country of immigrants and received about five million immigrants until the 1940s. Although this course has been reversed and the country currently sends large amount of Brazilians abroad, Brazil is still the destination of thousands of immigrants, mostly from neighboring countries. Brazil has officially about one million foreigners, representing approximately 0.4% of the population living in the country (150-200 000 irregularly).

The status of the foreigner in Brazil is regulated by the Federal Constitution and by the Law No. 6.815/80, called the Foreign Nationals Act. The Foreign Nationals Act is considered outdated by many experts, having been adopted during the military regime when the main concern was national security and control, and not human rights of these individuals.

The new Foreign Nationals Act, under discussion in the Congress, should provide greater flexibility for obtaining visas and for the regularization of foreigners in the country. The main objective of the new law is to safeguard the civil and fundamental rights of immigrants, offering them a treatment in accordance with Brazil's international commitments in the field of human rights. It also intends to modernize the immigration control system and to eliminate barriers, especially between neighboring countries.

The Constitution enunciates, in its Article 5, that "All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property". Article 227 states that: "It is the duty of the family, the society and the State to ensure children and adolescents, with absolute priority, the right to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, as well as to guard them from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression". Paragraph 1 also determines that the State shall promote full health assistance programmes for children and adolescents, the participation of non-governmental entities being allowed.

The Statute of Children and Adolescents (Law n° 8,069, July 13, 1990), in its art. 3, adds that "the child and adolescent enjoy all the fundamental rights inherent to the human person and, by law or other means, are ensured of all opportunities and facilities so as to entitle them to physical, mental, moral, spiritual and social development, in conditions of freedom and dignity".

In addition, Brazil ought to respect, in these matters, conventions, treaties, pacts, ratified by the country and incorporated into the domestic legal system, such as the Convention on Private