

ANCED's Contribution to the Universal Periodic Review of the United Nations' Human Rights Council

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Introduction

The National Association of the Centers for Defense of Child Rights – ANCED, is an organization in existence for 13 years now, gathering 37 centers for defense (CEDECA's) throughout Brazil. The CEDECA's – defense centers for the children and adolescents are independent non-government standalone organizations. The common identity of which is the defense of children and adolescents human rights for, especially by means of liability actions for rights and redress (also via legal remedies) of violated rights. The CEDECA's, currently present in all regions of the Country, foster various defense areas in connection with civil, political, economic, social and cultural rights of the population ages 0 to 18 years old¹.

The ANCED is a result of undertaken efforts by the *Defense Centers Network* in the early 90's. In 1994, after a debate process on the need for setting up a more solid organizational structure with the skills to develop actions for strengthening the CEDECA's and the common strategy for legal and social protection, the Network decided to get organized as a national organization. That's when ANCED arises.

ANCED's social and political mission is a result of the struggle of the Brazilian society in the establishment of a Country-wide project capable of fulfilling the fundamental rights of the social majorities and of overcoming the historical forms of exclusion and injustice. The ANCED understands that its **Mission** in the defense of the human rights of children and adolescents is not an end in itself, but rather a strategy for the construction of a society that allows for universal human dignity to put an end to the structural causes of oppression.

In its thirteen years, ANCED and its associated entities gathered three distinct strategies: the legal and social protection, the social mobilization and the diffusion of rights. The normative landmark for these strategies relies on international treaties of human rights, notably the Convention on the Rights of the Child, the Federal Constitution and the Statute of the Child and Adolescent - ECA. The ANCED develops actions using several possible legal and social mechanisms: monitoring public budgets intended for use with childhood, capacity building actions of citizens in the civil society, liability and justiciability of human rights, advocacy, etc.

¹See in Annex I to the list of all CEDECA's affiliated to ANCED

This brief contribution intends to demonstrate that the Brazilian childhood and adolescence continue being targets of serious violations of human rights. Unfortunately, due to space limitations, we have failed to feature education indicators. We prefer to work with income inequality and child and teenage mortality.

Brazil – a perverse context to childhood

Brazil, with over 183 million inhabitants, is the fifth largest country in the world in terms of population and ranks as the 10th economy in the planet. It is also one of the most unequal countries on Earth, occupying the 92nd position in the per capita GDP distribution and the 69th position in the ranking of the HDI – Human Development Index. Data provide by the UNDP (United Nations Development Programme) provide that the Country is the 10th most unequal nation in a list comprising 126 countries and territories, ranking only before Colombia, Bolivia, Haiti and five countries in Sub-Saharan Africa². The same report brings the information that Brazil is "the most unequal of all countries with higher Human Development Indexes (HDI) than its — the closest one would be Chile, with a Gini index of 0.571. Moreover, in only eight countries the richest 10% of the population take up a larger slice of the national income than the rich Brazilians. In Brazil, they bite-off 45.8% of the income, less than in Chile (47%), Colombia (46.9), Haiti (47.7), Lesotho (48.3%), Botswana (56.6%), Swaziland (50.2%), Namibia (64.5%) and Central African Republic (47.7%). In the other extreme, in only seven countries worldwide the wealth portion taken up by the poorest 10% is smaller than in Brazil. The Brazilian poor population holds only 0.8% of the income, a slice greater than that of the poor populations in Colombia, El Salvador and Botswana (0.7%), Paraguay (0.6%), and Namibia, Sierra Leone and Lesotho (0.5%). The comparison between the richest 20% and the poorest 20% indicates that, in Brazil, the income slice obtained by the richest 1/5 of the population (62.1%) is almost 24 times greater than the income slice the poorest 1/5 (2.6%)."

Such inequality – also reproduced in internal regional scale – frontally affects children and adolescents. We understand that poverty, in Brazilian proportions, is the first major violator of rights, since the mechanisms for social protection are incapable of ensuring the rights of millions of children and families in economic vulnerability situations. We are here speaking of millions of families who do not have the means of guaranteeing minimum standards of decent life to their children. In accordance with the IBGE (Brazilian Institute of Geography and Statistics), "almost half (48.9%) of the Brazilian families, about 28.9 million, have children and teenagers up to 14 years old. Such families are part of a vulnerable segment of the population regarding their poverty level. It should be noted that the percentage of poor families considered here (with monthly *per capita* income of up to 1/2 minimum wage) was of 25.1% in relation to the families total in the Country, but such figure reached 40.4% amongst families with 0-14

² 2006 Report of the United Nations Development Programme (UNDP). Available at www.pnud.org.br. This document further reads: "the Brazilian performance is assessed in the report mainly based upon the Gini Index – an indicator of income inequality that varies from 0 to 1, being 0 a situation in which the whole population has equivalent income and 1 if only one person held all the wealth in the country. In the report, Brazils index is 0.580, lower than that of Colombia (0,586, 9th in ranking of the worse ones) and the little higher than that of South Africa and Paraguay (0,578, tied in the 11th rank)."

years old children. When considering those families with children in the 0-6 age bracket, the percentage is even higher: 45.4% ³, i.e., families with children in this age-group are even poorer. However the poverty and the inequality have different regional dimensions. The table below depicts the huge difference between the five Brazilian macro-regions (North, Northeast, South, Southeast and Mid-West). As an example, we take the difference in the percentage of families with children and adolescents of up to 14 years-old who live in poverty in the South (26.5%) and in the Northeast (63.1%), i.e., **further to being nationally unequal, Brazil has regional disparities reaching almost 40 percentile points**. With due respect to proportions, it would be as if we were comparing completely different countries.

Families with children ages 0 to 14, total and respective percentile distribution, by per capita monthly family income average (IBGE, 2007)

	<i>Up to ½ MW</i>	<i>Over ½ up to 1 MW</i>	<i>Over 5 MW</i>
Brazil	40.4	28.6	2.2
North	49.3	27.6	1.1
Northeast	63.1	20.6	1.0
Southeast	28.1	32.7	3.0
South	26.5	32.2	2.5
Central West	34.4	32.2	3.2

The same regional disparities are easily found in another indicator – infant mortality for each thousand babies born alive. Despite the significant reductions obtained in last the fifty years, Brazil still keeps very relevant internal inequalities amongst its regions with differences of 20 points between the South and the Northeast. The table below was based upon the data provided by the Synthesis of Social Indicators 2007 (IBGE), prepared as from 2006 data

Infant Mortality Rates

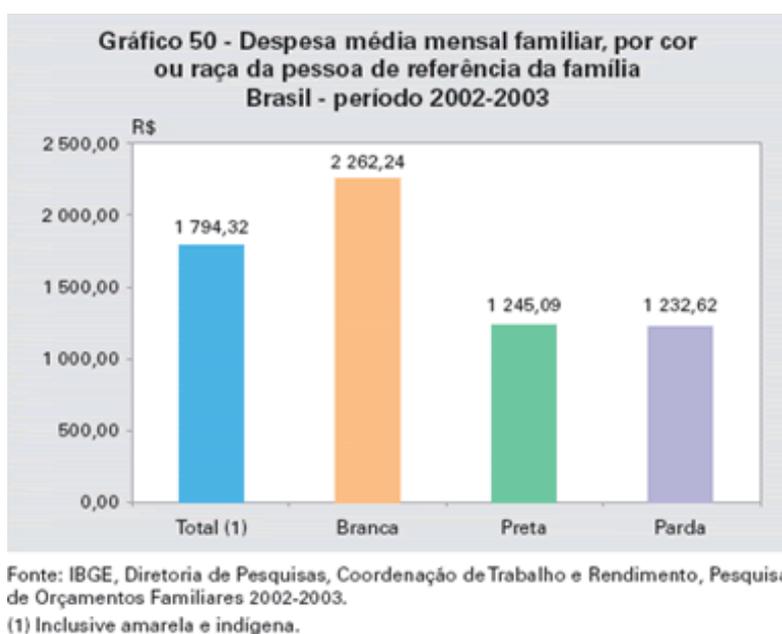
	<i>Infant Death rates (per thousand babies born alive - ‰)</i>
Brazil	25.1
North	25.8
Northeast	36.9
Southeast	18.3
South	16.7
Central West	19.5

Moreover, the inequality is also color/race related. In 2005, the Human Development Report for Brazil (UNDP) focused on the ethnic and racial inequalities. The results reveal a country that "failed to extinguish slavery outcomes", as the Brazilian abolitionist Joaquin Nabuco wished for in the 19th Century. Pursuant to such document, "if whites and blacks settled separate countries each, they would be 61 positions apart. The white population would have high HDI rates (0.814) and would rank 44th worldwide – similar to Costa Rica and higher than that of Croatia.

³ Synthesis of Social Indicators 2007. IBGE. Rio de Janeiro. 2007

The black population (blacks and *pardos*) would have an average HDI (0,703) and would occupy the 105th position, equivalent to that of El Salvador and worse than that of Paraguay" ⁴

The official data, gathered from IBGE polls, use the self-reported skin color concept, i.e., the surveyed individual states whether he/she considers being white, black or *pardo* (medium brown). Adopting this criterion, the POF – Research on Family Budgets reached the data depicted in the chart below: ⁵



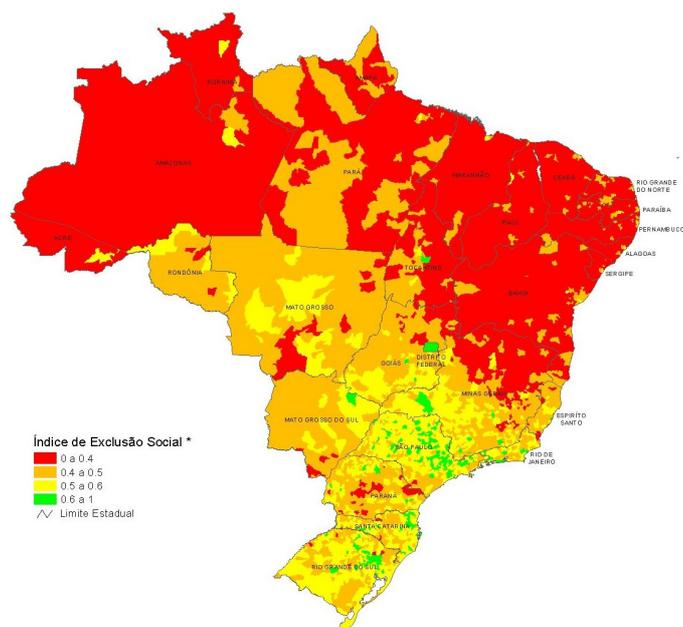
As noted in the above chart, the families' average monthly family expenditure whereby the reference person classified him/herself as white (R\$2,262.24) is almost twofold of that whereby the reference person classified him/herself as black (about R\$1,230.00), in an undisputed demonstration of the interconnection between race and social class.

Using the **Social Exclusion Rating** mechanism, developed by Brazilian researchers under the coordination of Prof. Márcio Pochmann (UNICAMP) and that, in the same direction as the HDI, is an indicator that is established by lining up three dimensions: *decent standard of living, knowledge and juvenile risk*⁶, we reach the map below. It should be noted that the regions in red indicate high Social Exclusion Rates between 0.0 and 0.4. The regions in lighter color hues depict less severe social situations until reaching the color green with better social exclusion rates – 0.6 to 1.0.

⁴ Report on Human Development in Brazil 2005 — Racism, poverty and violence. UNDP Brazil. 2005. Brasília

⁵ From www.ibge.gov.br – Research on Family Budgets 2002-2003, published by the IBGE in August 2007

⁶ POCHMANN, Márcio et AMORIM, Ricardo (orgs). *Atlases of Social Exclusion in Brazil*. São Paulo. Cortez Editora. 2003.



Violence is one of the results of the inequality and poverty combination in an environment for promoting consumption and a culture of low-levels of citizenship rights. Even if we were to agree that poverty and inequality are not the only explanations for the epidemic violence that takes place in Brazil, we cannot rule them out as the engine for the interpersonal and social conflicts that distress the population, causing the death of thousands of individuals annually.

In accordance with the 2006 Violence Map⁷, "we can observe that, with global homicide rate of 27 per 100 thousand inhabitants in 2004, Brazil is still ranking amongst the countries with the highest homicide rates in the 84 countries that the Whosis/WHO offered with the corresponding information. Although the rates in Brazil are lower than those of Colombia and similar to those of Venezuela and Russia, nonetheless they continue to be extremely high in the international context."

Countries according to homicide rates (in 100 thousand inhabitants)

Country	Year	Rate Total population
Colombia	2003	57.4
Venezuela	2002	29.5
Russia	2004	27.3
Brazil	2004	27.0

Country	Year	Rate Young Population (15 to 24 years-old)
Colombia	2003	95,6
Venezuela	2002	65,3
Brazil	2004	51,7
Puerto Rico	2001	50,1

Source: Violence Map 2006, OEI

⁷ WAISELFSZ, Julio Jacobo. 2006 *Violence Map –Brazil's Youth*. OEI – Organization of the Ibero-American States for the Education, Science and Culture. Brasilia. 2006

In one decade (1994-2004) the homicides grew 48.4%, while the population grew 16.5% in the same period. The SIM System – Information Mortality System (Health Ministry) registered 48,374 homicides in 2004, in a average of 132,5 homicides per day in the Country. The good news is that the number of homicides has been decreasing since 2003 (year when the total reached 51 thousand). Recent research of the Health Ministry states that in 2006 there were 44,6 thousand homicides, 70% of which had been caused by firearms.⁸ Despite the alarming figure, there is a reduction of 4,000 deaths in relation to 2004. However, the young, black, male profile remains unchanged.

Continuing in accordance with the 2006 Violence Map, "the homicide rate of the black population is even higher than that of the white population. Whereas in the white population in 2004 the homicide rate was of 18.3 homicides in 100 thousand whites, in the black population such rate was 31.7 in 100 thousand blacks. This means that the black population had over 73.1% more homicide victims than the white population (...) If in the population as a whole, the black victimization is already severe, amongst the youngsters, the problem is worse: the victimization rates grow to 85.3%, in other words, the young black homicide rate (64.7 in one hundred thousand) is 85.3% higher than the young white rate (34.9 in one hundred thousand)." The same study confirms that violence has a strong gender-related trace, because "only 7.9% of the homicide victims in the country during 2004 were females. Amongst the young, such proportion is even smaller: 6.3%. And such ratios have been constant in the last years."

However, it should be noted that the problem is concentrated in urban peripheral areas. While the youth homicide rate in Brazil reached **51.7** for each one hundred thousand inhabitants in 2004, in Recife/PE such rate outrageously reached **223.6**, turning the city into the capital with the highest youth homicide rate in Brazil.⁹

The criminalization of the poor child and adolescent population

The consequence of such great social conflict is the increase in the imprisonment of youngsters poor individuals, living in urban peripheries. In accordance with data from the Special Secretariat of Human Rights of the Presidency of the Republic, the number of adolescents¹⁰ deprived of liberty grew 325% between 1996 and 2006. However, according to *Diagnostic of the Public Defense Attorney in Brazil*, published in 2006 by the Justice Ministry, in average, less than 40% of the country's municipalities are served with the support of public defense attorneys for the population. Moreover, only 56% of the *Defense Attorney Offices* keep regular shifts in the centers for adolescents deprived of liberty.¹¹ The right to defense is, with no doubt, one of the most violated rights of the adolescents in conflict with the law. Various records indicate that many have their liberty privated without having ever had access to a counsel, which contradicts international human rights treats, the Federal Constitution and the ECA. We can easily conclude that the adolescents in conflict with the law, poor in their vast majority, having no access nor conditions of defense, undergo all sorts of arbitrary acts in the Security and Justice system. The majority of violations (57%) committed by such adolescents had been

⁸*Homicide Reduction in Brazil*. Health Department and Ministry of Justice. Brasilia. 2006

⁹ WAISELFSZ, Julio Jacobo. *2006 Violence Map – Brazil's youth*. OEI – Organization of the Latin American States for Education, Science and Culture. Brasilia. 2006

¹⁰ In accordance with the Brazilian legislation (Statute of the Child and Adolescents), adolescent are those individual with ages 12 and 18 (incomplete).

¹¹ II Diagnosis of the Public Defense in Brazil. Justice Department. Brasilia. 2006

against the property, demonstrating that the poverty and the inequality have been feeding the involvement of these youngsters with such actions. A detail of the weakening juvenile justice system is the juvenilization of the jail population. 40% of the 420 thousand adult prisoners in Brazil, are aged between 18 and 29 years old.

An additional element for the analysis of the liberty deprivation context is the budgetary performance of the Federal Government in relation to infancy and adolescence. Data gathered by INESC¹² in October of this year (2007) reveal that certain strategic programs for the guarantee of rights were with very low performance. For example, the *Program of socio-educative support for those adolescents in conflict with the law*, budget allocation of which is R \$24 million had, until September 2007, an execution not much higher than 5.22%, that is, R\$ 1.28 million. It should be pointed that the large number of violations (tortures, cruel treatment, negligence and death) registered in the incarceration system for youngsters in conflict with the criminal law, many of which have already been taken to the Inter-American System of Human Rights, what justifies therefore, that the investments in this area are more than urgent.

We reach the following equation: we have more adolescents and youngsters dying, more adolescents and youngsters being jailed and, finally, a social and political environment more prone to ideas in connection with the "destruction of basic rights" via amendments to the criminal legislation. Brazil, as in other Latin America countries, is being devastated due to the increment in urban violence, by the new outbreak of ideas hardening the Criminal Law, social hygiene, institutionalization of life imprisonment or even death penalty. Such measures aim at certain the impoverished social segments, leading us back to the end of the 19th century, when the poor individuals were called *dangerous classes*.

Some considerations

Brazil is, doubtless, the country of dissonances. It has a constitutional and legal framework based in the acknowledgment of the prevalence of the human dignity (however, we should be reminded that such legal advancements are being gradually threatened). Nonetheless, the country features deep social fractures that separate geographic regions, social classes, men and women, whites and blacks, children, youngsters and adults. Although having ratified all international human rights treaties, it fails to establish policies and public resources capable of making the rights recognized by the country come true. On the contrary, the economic policies have, over all since the period of structural adjustments in the 90's until the present date, privileged the financial corporations¹³ in detriment of the necessary investments for deconcentrating the wealth and raising the standard of living of such segments considered most vulnerable. In summary, it is a State that is historically incapable of promoting equitable access to the rights of the social majorities. Since the enactment of the ECA (1990), the country has been building a Rights Guarantee System, with thousands of councils for the establishment and control of policies (council for the rights of the children and adolescents) and protection councils (known as "tutor council") that, although in existence and representing a concrete advancement, have been operating sufficiently below the desirable levels. Recent research¹⁴ carried through with these councils reveals that, in relation to the city councils for the rights of the child and the adolescents, only 17% have structuralized procedures for assessing public policies (which shows fragility in monitoring the effectiveness of rights and policies dedicated to

¹² INESC – www.inesc.org.br – Institute of Social and Economic Studies – a non governmental organization – data checked over the website on 15/11/2007

¹³ The Brazilian private banks have, year after year, broken the records for profitability.

¹⁴ *Knowing the reality*. CONANDA, SEDH, Pró-Conselho Brasil. July, 2007

infancy). In the same way, when analyzed the protection council ("tutor council"), 32% informed that **no** council member had received training¹⁵ skills, i.e., the remaining 70% vary from one to five skilled council members.

We understand that children and adolescents end up being the main victims of these mechanisms for reproducing the exclusion – be it in the high infant mortality rates in the poorest regions of the Country, be it in low the quality of education, be it in the shameful lethal violence rates or in the high incidence of sexual violence. We understand that not only the budgetary effort of the State nor the change of macroeconomic policies would modify this scenario. However, we affirm that no substantial change will be possible without the establishment of development standards that allow access to the wealth in a more equitable manner. Likewise, we point out the role and responsibility that the organized civil society must perform in contributing for the strengthening a democratic culture and based on the respect to the human dignity and on the alterity, which has to undergo the capacity to demand and promote rights.

Finally, we point out the need for compliance with the International Human Rights System, especially in the acknowledgment of specific human rights for the children. In our case, we call the attention for the remaining challenge of enabling State operators based in the doctrine of the Integral Protection to the human rights of children and adolescents, as well as complying with the instruments and mechanisms set forth in the United Nations Global System. A fact that deserves major concern is the proven difficulty of the Brazilian Government in complying with the deadlines set forth in international instruments of human rights for its monitoring. An example was the 11-year delay to submit the initial report on the implementation of the Convention on the Rights of the Child.¹⁶

Brazil is a country of huge potentials. However, changes in politics and the political culture are essential so that these potentials become a reality. An urgent matter is the inversion of budgetary priorities. In contrast with the 70's, it is no longer a matter of **recognizing** rights, but, indeed, **promoting them** and **guaranteeing them**. We understand that the Human Rights Global System may play a relevant role in this challenge, leading the State and the society towards a more responsible and active attitude regarding the human rights of Brazilian infancy, adolescence and youth rights, resulting in the understanding that the principles of human rights and, in this case, the principles of the Convention on Rights of the Child should be the grounds for the definition of social and economic investment policies. In other words, the development measure must be the human dignity and not only the maintenance of economic indicators with doubtful validity.

¹⁵ In compliance with the ECA, the tutor councils should include five council members. The tutor council is responsible for watching over the rights of the child and adolescents when violated, requesting services and applying protection measures, therefore their qualification is essential for the protection of the rights of children.

¹⁶ In accordance with the Concluding Observations of the Committee for the Rights of the Child, aimed at Brazil in October 2004, the Country should had submitted a new report in the end of October 2007, which it had not. The same non-compliance with the terms for the monitoring appeared in the optional protocols to the CRC that are over one year behind schedule.

Annex I
CEDECA´s affiliated to ANCED by region

NORTH

1. CEDECA EMAÚS – Pará State
2. CEDECA ACRE – Acre State
3. CEDECA “MARIA DOS ANJOS” - Rondônia State
4. CEDECA PÉ NA TABA – Amazonas State

NORTHEAST

5. CEDECA “PE. MARCOS PASSERINI” - Maranhão State
6. CEDECA CEARÁ – Ceará State
7. CASA RENASCER – Rio Grande do Norte State
8. CENDHEC – CENTRO DOM HELDER CÂMARA DE ESTUDOS E AÇÃO SOCIAL – Pernambuco State
9. GAJOP - Gabinete de Assessoria Jurídica às Organizações Populares – Pernambuco State
10. CENTRO DAS MULHERES DO CABO - Pernambuco State
11. CEDECA “ZUMBI DOS PALMARES” - Alagoas State
12. CEDECA “YVES DE ROUSSAN” – CEDECA BAHIA – Bahia State

CENTRAL WEST

13. CEDECA DISTRITO FEDERAL – Federal District
14. CENTRO DE ORGANIZAÇÃO DEFESA DA CRIANÇA E ADOLESCENTE – CODCA – Mato Grosso State
15. CDDH MARÇAL DE SOUZA - TUPÃ I – Mato Grosso do Sul State

SOUTH

16. PROAME – Programa de Apoio a Meninos e Meninas – CEDECA Bertholdo Weber – Rio Grande do Sul State
17. INSTITUTO DE ACESSO À JUSTIÇA/IAJ - Rio Grande do Sul State

SOUTHEAST

18. CEDECA “HELENA GRECO” - Circo de Todo Mundo – Minas Gerais State

19. FUNDAÇÃO CENTRO DE DEFESA DOS DIREITOS HUMANOS BENTO RUBIÃO – Rio de Janeiro State
20. CDDCA – D. LUCIANO MENDES - Rio de Janeiro State
21. ORGANIZAÇÃO DE DIREITOS HUMANOS PROJETO LEGAL - Rio de Janeiro State
22. CEAP - Rio de Janeiro State
23. ASSOCIAÇÃO CHILDHOPE BRASIL - Rio de Janeiro State
24. CDDH PADRE EZEQUIEL RAMIN – São Paulo State
25. CEDECA "MÔNICA PAIÃO TREVISAN" - SAPOPEMBA - São Paulo State
26. CEDECA "NOEME DE ALMEIDA DIAS" - São Paulo State
27. CEDECA IPIRANGA - CASA 10 - São Paulo State
28. CEDECA "LUIZ GONZAGA JÚNIOR" - SANTANA - São Paulo State
29. CEDECA "MARIANO KLEBER DOS SANTOS"- SÉ - São Paulo State
30. CEDECA "INDIARA FELIX SANTOS AFONSO" - LAPA - São Paulo State
31. CEDECA PAULO FREIRE - São Paulo State
32. CEDECA INTERLAGOS - São Paulo State
33. CDDH. "PE. JOÃO BOSCO BURNIER" - GUARULHOS - São Paulo State
34. CEDECA ALTA PAULISTA - São Paulo State
35. CRAMI-CAMPINAS – Centro Regional de Atenção aos Maus Tratos na Infância - São Paulo State
36. CEDECA "DAVID ARANTES" – LIMEIRA - São Paulo State
37. CEDECA JUNDIAÍ - São Paulo State