São Paulo, 20th of September 2013

Brazil

**To the Office of the United nations High Commissioner for Human Rights**

**Reference:** RRDD/HRESIS/IS/FCP/is

Dear Craig Mokhiber,

Mais Diferenças, a non-profit organization from Brazil, is pleased to send the answers of the following questions, regarded to the **“Human Rights Council resolution 22/3 – The work and employment of persons with disabilities”**.

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**1) Are you aware of any restrictions for persons with disabilities to attend regular schools? Please detail whether they exist in laws or policy, or if they exist only as a result of social barriers.**

Yes , there are barriers that restrict children and young Brazilians with disabilities to attend regular school s. Regarding laws, still exists in Brazil legal texts that give rise to misinterpretations, making it possible to keep children and young people in special schools without access to regular school, segregated. These legal texts, however, do not respect the Federal Constitution, which preconizes equal opportunities and access to basic education for all citizens, without discrimination. The Federal Constitution does not establish the existence of a parallel system of education. Therefore, segregated schools, according to the Federal Constitution, are illegal. In addition, Brazil has incorporated to the text of the Federal Constitution the full text of the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol.

The biggest barriers are social because the misinterpretation of the Constitution and the laws under the Constitution is based on common sense that people with disabilities should not be in mainstream school because, in theory, they would not be able to study with people without disability. There are also groups with economic and political interests that historically have been benefited by educational exclusion. These entities have provided substitutive schooling for people with disabilities because, historically, the State has failure on that matter. However, even with the advances of the last decade (when the country began to assume responsibility for provision of regular school), authorities insist on maintaining substitutive schooling – and receiving public funds for this. Allied to these entities are also political agents, who act as lobbyists in the legislative houses in order to hinder the progress of the implementation of inclusive educational systems.

**2) Does your country has or is currently developing a program or plan to promote inclusion of children with disabilities in regular schools or social institutions? If so, were persons with disabilities and their representative organizations, and other disability related organizations directly involved in the design and application of said program or plan? Please, briefly describe the program (no more than 500 words).**

Despite the legal texts mentioned above, which gives rise to interpretations that support discriminatory practices, Brazil has advanced in the last decade. In 2003, Brazil launched the Program “Inclusive Education: Right to Diversity”, which promotes continuing education for school managers and educators, so that they are able to offer special education from the perspective of inclusive education.

In 2008, the country launched the “National Policy on Special Education in the Perspective of Inclusive Education”, whose content is fully aligned to the UN Convention on the Rights of Persons with Disabilities. Under the policy, absolutely all people with disabilities have the right to attend regular school and, in the opposite class period, to attend the “Specialized Educational Service” (SES). This service is offered by a specialist teacher, in partnership with the regular classroom teacher and other professionals (eg. Health), provides teaching strategies and resources that assist students in their educational activities in regular school. The SES can only be offered if the student is attending a regular school. The federal government provides funding for both: regular school and the place where the specialized service is offered (at school, in SES Centers or partner institutions).

Enrollment of students with disabilities in basic education has grown exponentially in the last decade: from about 330,000 students in 1998, the country now has 820,000 students in 2012. Furthermore, the type school also changed: in 1998, only 13% of students with disabilities attended regular schools; in 2012 this percentage reached 76%. As a result, the access to higher education for students with disabilities increased 933.6% (between 2000 and 2010). Students with disabilities increased from 2,173 at the beginning of the period to 20,287 in 2010. Around 6,884 of those students attend public schools and 13,403 attend private schools.

Another program in Brazil is called “BPC in School”. BPC is a social program that provides cash payment to people with disabilities. “The BPC in School” was launched to identify children and young people aged 0 to 18 years enrolled in the program and who were out of school. In 2008, it was identified that 71% of BPC beneficiaries with disabilities aged 0 to 18 years were excluded from school, and only 29% of these beneficiaries are in school.

The government sends groups to visit the families of these beneficiaries in order to identify the reason they do not attend school. Currently, the program operates in all states and the Federal District, reaching 2,623 municipalities (47% of total), and covers 68% of this age group.

The Ministry of Education also maintains the following programs: equipped and furnished “multifunctional resources rooms”, where SES is offered, to public schools; program that funds the refurbishment of schools, to make them accessible; school meals for SES students; accessible transportation. All the country's public policies regarding inclusive education are the result of various social movements for people with disability rights.

**3) Is the Ministry of Education the only ministry in charge of education or other ministries (eg. Health and Social Affairs) are involved when it comes to persons with disabilities? Please, describe how other ministries get involved and specify if their involvement results on the denial of access to mainstream schools (no more than 250 words).**

No. Brazil launched, in 2011, the Program “Living Without Limits”, an initiative that brings together various ministries between complementary programs in education, health, housing, social welfare, labor and employment, among others. All these actions, indirectly, promote conditions of access of people with disabilities in regular schools. States, municipalities and the Federal District also maintain their own educational systems and are required to provide inclusive education by creating their own programs.

**4) Does your country have effective mechanisms to successfully claim in case of rejection of students with disabilities from mainstreams schools? If so, do those mechanisms guarantee for reasonable accommodation when services or support needed are not in place? Please provide information on good practices.**

Yes. Brazil offers public defender to low-income people. There is also the Public Ministry, whose promoters can act when the right of attending school is denied. Since 1989, it is a crime in Brazil denying the enrollment in regular school due to disability. However, even with these public legal services and despite the legal texts, it is not unusual to have cases of schools that do not enroll children and youth with disabilities, which configures discrimination and disrespects the Constitution. Also, when families or victims seek public defenders and prosecutors, there are cases where prosecutors and defenders themselves interpret laws wrongly, giving reason to schools, perpetuating discrimination and impunity. Therefore, the country still needs to make a big effort to improve the knowledge of these professionals regarding to the right to education.

Nevertheless, in Brazil the Association of Prosecutors in defense of the rights of the elderly and people with disabilities has been working to clarify the matter. There are promoters who individually work in order to require the government and private schools to enroll and offer education to all citizens, without discrimination.

**5) Are you aware if your country is involved in international cooperation programs related to the promotion and implementation of inclusive education systems? If so, is your organization involved in any such program?**

The Brazilian government, in addition to being a signatory to the UN Convention on the Rights of Persons with Disabilities and international treaties related to defending the rights of people with disabilities, has technical cooperation agreements with international organizations such as UNICEF, UNESCO and OEI, related to knowledge production and capacity building.

Our organization, Mais Diferenças, is currently discussing a research project in partnership with UNESCO. In addition, UNICEF selected, for a publication on best practices of inclusion of people with disabilities, an inclusive educational experience which was advised by our organization.

**6) Is there any additional information you wish to provide?**

Mais Diferenças is an organization with extensive experience in advising on the formulation and implementation of policies, programs and projects in the Inclusive Education area. These actions involve: advising public systems; educators training; development of educational materials and accessible resources; fostering inclusive educational practices in public schools; and advising joints among different sectors of public administration, in order to guarantee the educational rights of persons with disabilities.

In addition, Mais Diferenças takes part on forums, networks and other strategies for incidence and social control of public policies. We are available to establish national and international partnerships, alliances and other joints.

**Carla Mauch**

General coordinator