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NATIONAL REPORT:
LEGAL AID IN BRAZIL – RECENT DEVELOPMENTS AND PROSPECTS FOR THE FUTURE

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1. Introduction

Brazil has made important progress in the last years towards the democratic access to justice. Specifically regarding legal aid for the poor, a significant increase is noticed in the volume of financial resources invested by the government for the improvement of free legal aid services, delivered through Public Defender Offices. In comparison to the budget approved for the Public Defender Offices between 2007 and 2009, a raise of about 45% is seen. The number of Public Defenders in activity is also growing at a regular pace: in 2003 there were 3250 Public Defenders in Brazil. In 2009, this figure leaped to 4398 (corresponding to an increase of over 35%)[2]. These figures reveal the Brazilian government's major effort to comply with its constitutional duty in guaranteeing to all equal access to justice, in special for its least able and most vulnerable citizens, according to the Constitution. There is a clear effort to expand the territorial range of the services to the entire country. This is a priority because around 50% of the Brazilian towns, mostly in the rural areas, had not yet a Public Defender Office regularly installed in 2009.

At the same time, several laws (and even a Constitutional Amendment) were recently approved by National Congress with the aim to strengthen Public Defenders' prerogatives and also to extend their scope of action. Additionally, an effort is being made to improve Public Defenders' salaries, in an attempt to make this position more inviting to better qualified professionals concerned in offering high quality legal aid services to the poor. There was, from 2005 to 2009, an average variation of approximately 90% in the wages paid to Public Defenders in Brazil. In many Brazilian states, a total parity between the monthly remuneration received by a Judge, a Public Prosecutor and a Public Defender has been reached, indicating the acknowledgment of the importance of equal treatment/parity among accusation (defense of society's interests) and the defense of the citizen's interests in need of a lawyer to adequately represent them in a lawsuit.

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[2] Source of these figures: III Diagnóstico da Defensoria Pública no Brasil, available at http://www.anadep.org.br/wtksite/IIIdiag_DefensoriaP.pdf

2. Type of Legal System

Brazil is a civil law country with its legal system based on codes and legislation enacted primarily by the federal legislative power as well as the states and municipalities. It is a Federative Republic with a peculiar feature: besides the typical level of "state governments" and "federal government" (as in the USA), municipalities are also considered part of the federation. The 1988 Federal Constitution established the Legislative (National Congress that consists of two houses: Chamber of Deputies and Federal Senate); the Executive (President of the Republic); and the Judiciary as the three branches of Brazilian government. The Judiciary has a large number of different levels of courts and jurisdictions. It consists of the Federal Supreme Court (the guardian of the Constitution); the Superior Tribunal of Justice (responsible for upholding federal legislation and treaties); the Regional Federal Courts (which have constitutional jurisdiction on cases involving appeals towards decisions ruled by federal judges); and Federal Judges (who rule basically disputes in which one of the parties is any federal agency or the Union itself). There are also specialized courts to deal with electoral, labor and military disputes. The Judiciary is organized into federal and state levels (there is not a "municipal justice": municipalities resort to state or federal courts, depending on the nature of the case). State level justice in Brazil consists of state courts and judges which rule cases that are not under specialized jurisdictions (mainly disputes involving day-to-day life of the people). In 2004, Congress amended the 1988 Constitution and established that the final decisions issued by a majority of two thirds of the members of the Federal Supreme Court would have a binding legal effect on the entire Judiciary. Such decisions, called "*súmulas vinculantes*" are regulated by Law 11.417 of December 19, 2006, and enable the Judiciary to judge in a definitive and final way thousands of cases dealing with the same issue.

3. Population

According to official figures(the last official census), the Brazilian population in 2010 was of 190.755.799 inhabitants. This makes of it the second most inhabited country of the American continent and the fifth of the world (only behind China, India, USA and Indonesia).

In 2010, the population of the State of Rio de Janeiro was of 15.993.583 inhabitants.

4. GDP

In 2009, the Brazilian GDP was of R$ 3.143.000.000.000 (equivalent to US$ 1.571.957.000.000). In 2010, as Brazil's economic growth rated approximately 7.5%, the GDP was around R$ 3.675.000.000.000,00 (equivalent to US$ 2.100.000.000.000). These numbers confirm Brazil's position as the world's eighth biggest economy, soon to occupy the seventh.

The GDP of Rio de Janeiro State in 2008 was around R$ 348.182.000.000,00 (equivalent to US$ 198.961,00).

5. Average annual salary (full time work)

The 2009 annual per capita income (per capita GDP) was of approximately US$ 8.100 . According to 2010 numbers, the per capita income would be of approximately US$ 11.000.

6. Administration of Legal Aid

Since the mid-twentieth century, the Brazilian legal system has protected legal and constitutional guarantees to the right to legal aid and has accordingly provided for a governmental body mandated with the obligation to deliver legal aid services. As early as 1934, the Brazilian Constitution acknowledged the right of those living in poverty to have access to free legal assistance for the defense of their rights before the judicial system (right to counsel), to be implemented by federal and state governments[3]. In 1946, a new Federal Constitution was approved, when the right to free legal aid to the poorest was again formally recognized, but it was not a right whose implementation could be immediately demanded from the government. While it was clear, from the wording of the constitutional provision, that it was the duty of the public authorities to provide such a service, it was also evident that the right to free legal aid would demand further regulation.

Thus, the right would be made available by Law 1.060, of February 5, 1950, in which both the right to free access to the judicial system (*in forma pauperis litigation*) and to free assistance by a lawyer (*right to counsel*) were regulated. The above legal and constitutional background have provided the basis for the potential development of a national structure for the provision of publicly funded legal aid services and, as a result, governmental legal aid agencies were set up in different states of the federation. These were staffed by

[3] Article 113 (32) of the 1934 Constitution reads: The Union and the States will confer judicial assistance to the needy, creating to this effect special organs and securing exemptions of taxes and fees.

lawyers paid with public funds, mandated to act in the criminal and civil areas of law and who were, in most cases, already called 'public defenders'. The reality of public legal aid services in Brazil in the 1960s and 1970s has been explained by Barbara Yanow Johnson thus:

> Brazil has an even more elaborate constitutional and statutory scheme. The Brazilian constitution is one of the few in the entire world that explicitly guarantees civil litigants, as well as criminal defendants, legal assistance and the right to proceed '*in forma pauperis*', or, in other words, without payment of the normal court fees. The constitutional guarantees are expanded by statutory enactments which extend the guarantee to criminal, civil, military and labor proceedings. Moreover, federal legislation instructs that each state must create a public legal aid plan. In the more inhabited areas, this led to employment of full-time staff attorneys. The largest of them is located in São Paulo and in 1969 was operated by 115 paid attorneys.[4]

Nevertheless, although the above quote might give an impression of remarkable success, in reality, a number of reasons – mainly political and financial – have prevented the effective implementation of the right to legal aid, as stressed by the same author:

> Unfortunately, the prevailing political system in Brazil *(note: this was written by Mrs. Johnson in early 1970s!)* has not been conducive to an adequate implementation of the theoretical rights of legal aid. Most Brazilian states have been satisfied to establish very small staffs. Consequently, observers report that despite constitutional and statutory guarantees, government financed system only meets a small percentage of the need. A small portion of this gap is occupied by labor unions which are obliged by law to offer legal advice and representation to their members in labor issues; and another by timid efforts made by private social welfare organizations, especially in family law cases.[5]

Such was clearly not a satisfactory outcome. However, the development towards a more successful system of publicly funded legal aid services in Brazil would gain a new impetus by the late 1980s. Thus, in 1988, a new Constitution was approved. Besides prescribing that *'The State will provide integral and free legal aid to those who can prove insufficiency of resources´* (as establishes

[4] Cf. JOHNSON, Barbara Yanow. "*A Synopsys of the Principal Legal Aid Developments outside Europe and North America"* In: CAPPELLETTI, Mauro; GORDLEY, James & JOHNSON Jr., Earl. *Toward Equal Justice. A comparative study of legal aid in modern societies*. Milano/Dobbs Ferry (N.Y.), Giuffre/Oceana, 1975, p. 649.

[5] Cf. JOHNSON, Barbara Yanow., p. 649.

Article 5, LXXIV), the new Constitution also clearly determined the obligatory establishment, nationwide, of public agencies authorized to implement the guarantee of Article 5 (LXXIV). These were to be named 'Office of Public Defenders' ('OPD').

This last Constitution represented a landmark for the legal aid system in Brazil, above all because it protects the *right to legal assistance* (encompassing legal advice and legal representation), which must be *integral* (i.e. not only in criminal matters, but in all areas of law) and *free of charge* (to those who cannot afford legal services). It is also – and essentially – due to the clear constitutional concern in regulating *the right's manner of implementation*. In other words, there is an order for federal and state governments to organize and maintain this specific institution, the Office of Public Defenders. The OPD is conferred a similar status and structure to that of the "Public Ministry" (that is an official agency more or less equivalent to the "Office of the District Attorney" - in the US – or to that of the "Crown Prosecutor" - in the UK, Australia and New Zealand - although it does not only deal with criminal cases, but also with civil and, specially, collectives cases). The publicly funded professional staff model has, in this way, been chosen by the constitutional legislator as the main form of delivering legal aid services.

In 2004, a major reform of the Judiciary and associated institutions took place and the Constitution was accordingly amended (Constitutional Amendment n. 45 of December 8, 2004). One of the important topics of the reform was the inclusion, in the constitutional text, of the guarantee to administrative and financial autonomy for the OPD. Such an inclusion had the explicit purpose of avoiding any interference by the Executive branch of the government in the OPD. It was the end of the historical dependency from the government, and the OPD could then define their priorities and strategies with the objective of fulfilling their constitutional and legal mandates. Following the 2004 reform, Complementary Law n. 80, of January, 12, 1994, (that organized, nationwide, the OPD) was amended by Complementary Law n. 132, of October 7, 2009, with the goal of adapting the regulation to the new constitutional provisions. As a result of the increased independence granted to the OPD, the new legislation brought about innovations which sought to provide the OPD with the necessary powers to freely fulfill its constitutional mandate.[6]

7. Different legal aid structures

[6] These reforms were subject of a detailed study which was presented at the "LSRC International Research Conference", in June 2010, in Cambridge. The study will probably be published in the annals of the mentioned event.

The Brazilian model of legal aid to the needy is, as was seen, strongly rooted in the perspective that it is the State's duty to assure the delivering of these services. Such is to be done by public agents and structured within an institution strictly created for this purpose, the Public Defender's Office. However, there is no State monopoly regarding the legal aid to the poor function. On the contrary, it is even desired that civil society organizes itself in the sense of contributing to the attainment of the objective of providing equality in the access to justice for all citizens. What the Brazilian normative legal and constitutional system limits is the State's actions, especially concerning the application of resources from public funds, which must necessarily be made through the Public Defender's Office. The option of the State to pay private professionals, non-members of the Public Defender's Office's functional staff, for the support of legally needy persons is not an alternative for the organization. In truth, when it happens, it is as a kind of "sanction" of the public power's omission of its onus in organizing the Public Defender's Office's and effectively guaranteeing the presence/performance of a Public Defender where it is necessary.[7]

Thus, according to the model established by the 1988 Constitution, the responsibility for the guarantee to assistance and representation of the poor party in court was expressly assumed as a State obligation, no longer understood as charity from private lawyers (*pro bono* service), as occurred in the previous regime. This does not mean that the State wishes to prevent lawyers from practicing one of the most noble and ethical features of the profession, which is to freely deliver their services to the needy. In truth, this is one of the most relevant social functions of advocacy and the State has the duty to stimulate such a healthy and traditional practice. Therefore, as a concrete sign that the State values this worthy attitude in lawyers, the law admits and grants gratuitousness of justice (*in forma pauperis litigation*) even when the party is assisted by a private lawyer, as long as this professional declares he/she will act free of charge. In this case, the citizen's free choice of a lawyer is also preserved. This free choice, however, cannot result in any cost for public funds. In these cases, what is assured is only the Public Power's option in not receiving owed fees and costs (concerning the lawsuit to be filed by the private lawyer chosen by the a poor people), understood as the State's collaboration towards the promotion of equality in the access to justice.

[7] In accordance to what is established by Law n. 8906/94 (Article 22, Paragraph 1) in the new Statute of Advocacy in Brazil, every time a private lawyer is appointed by a judge to represent a poor party, when this designation becomes necessary because of the government's omission to provide an adequate service of the Public Defender's Office, the appointed lawyer (by the judge) will have the right to charge fees from the governmental entity (State or Union) which would be responsible for the delivering of the legal aid service. In other words, the text of Article 22, § 1, of Law 8906/94, guarantees the lawyer's right to charge fees from the State only when acting in the support of a legally needy person due to the Public Defender's Office's "impossibility." The expression "impossibility" is not congruent with the idea of deliberately creating a structure by means of agreements with the Bar Associations for the delivering of this service.

There are countless cases in which the parties come to the judiciary to plead their rights or defend their interests, assisted by lawyers who spontaneously accept to freely deliver this relevant service, in a gesture of solidarity (*pro bono* advocacy). Not only lawyers individually offer this type of collaboration, but also OAB, the Brazilian Bar Association, which maintains in most of the country's states, offices for legal aid with lawyers working mostly as volunteers. This is considered as the field of practice for the professional training of advocacy demanded by law for enrollment as a lawyer.

The relevant role of the Brazilian law schools should also be pointed out. They traditionally maintain free legal aid services as part of their university extension activities and as a field for practical learning for students of graduate law courses. Very similar to the *Law clinics* of the American law schools, the Nuclei of Practical Law (*Núcleo de Prática Jurídica)* are presently obligatory in all of Brazilian law schools after the curriculum reform which resulted from the Ministry of Education's Administrative Rule N. 1886, of 1994. The law scholar's contribution is also of great relevance for the functioning of the legal aid services, not only for the Nuclei of Practical Law but also as trainees (often as volunteers)[8] when working with the Public Defender's Offices, maintained by the States and the Union.

Several other civil society organizations also work furnishing legal aid with many of the above mentioned in the extra-judicial field, providing legal guidance and counseling. They are neighborhood organizations and associations, and religious entities, such as the Catholic Church's traditional Penitentiary Pastoral activity (this service is present in almost all of Brazil, offering spiritual and legal assistance to prisoners and their families). Countless other non-governmental organizations have emerged in the last few years centered on the delivering of services associated to the access to Justice.[9]

8. Financial eligibility

The definition of the universe of the beneficiaries to the right of public legal aid must result from the combined interpretation of the constitutional provisions previously mentioned within the infra-constitutional legal system.

[8] Due to the very heavy workload the have to deal with, Public Defenders normally need to count on the help of law students performing mostly as paralegals. For example, in 2009, there were more than 3000 law students working as intern/trainees in Rio de Janeiro Public Defender System, and only 1593were paid for this job (the number of public defenders in Rio is 720). In the State of São Paulo there were 1394 paid law students, and only 397 public defenders.

[9] An example of this service delivered by NGOs, the organization "Viva Rio," which implemented the project called "*Balcão de Direitos*" ("Counter of Rights"), focused on conflict resolution in Rio de Janeiro's *favelas*. (Cf. the book "Balcão de Direitos – Resolução de Conflitos em Favelas do Rio de Janeiro," by Paulo Jorge Ribeiro and Pedro Strozenberg, published in 2001, by Editora Mauad, Rio de Janeiro).

Traditionally, the "benefit" to legal aid was always conceded to those who suffering economic scarcity, preventing them of meeting with the expenses usually required to access to justice. Initially, only those considered poor, totally deprived of financial means, could legally qualify to benefit from this state assistance. However, Brazilian legislation, in a rather pioneer manner, assumed a leading position in this specific issue, in the sense that the text of Decree n. 2.457, of February 8, 1897, presented quite an open and flexible concept of "poor",[10] not defining the parameters or pre-established limits of pecuniary resources as a requisite for the granting of judiciary assistance. This became a tradition in Brazilian law; the same notion was maintained in the 1939 Code of Civil Procedure[11] and, later on, in Art. 2, Paragraph 1 of Law n. 1060/50. This text is still in use and establishes the following:

> "Considered needy, for legal purposes, is every person whose economic situation does not permit them to pay the lawsuit's costs and the lawyer's fees without harm to their own maintenance or to that of their family."[12]

Hence, the characterization of the prevailing condition of "needy", or "hyposufficient," is an established idea for over a century in the Brazilian legal system: the universe of possible "beneficiaries" of the assistance which must be provided by the state with the purpose of facilitating equal access to justice is not defined by fixed tables based on the standard of a citizen's earnings. Embodied in the legal concept which defines the conditions for admission to the "benefit" of legal aid - both judicial and extra-judicial – is an ample margin of flexibility which allows the analysis of all of the person's and their family's economic circumstances. This is, as already mentioned, an important feature of the Brazilian model of legal aid. Thus, though there is information that some Public Defenders Offices in certain states of the Federation have adopted criteria for eligibility for the service based on the number of minimum salaries of family income. Some State Public Defenders Offices do not represent clients whose mensal income is above 03 minimum salaries (currently, R$ 1.535,00 per

[10] This text, over one hundred years old and a provision of Decree n. 2.457, dated 1897, considered poor "every person who, having the right to assert those rights in court, is unable to pay or anticipate the costs or expenses of the lawsuit without depriving themselves of the pecuniary means indispensable for the ordinary needs of their own or their family's maintenance."

[11] The following is the provision found in the 1939 Code of Civil Procedure: "Art. 68 – The party who does not have the means to pay for the costs of the lawsuit without harm to their own or their family's maintenance, will be granted the benefit of gratuitousness...".

[12] It is true that in the primitive context of the original text of Law n. 1060/50, there was an indication of the parameter of two minimum salaries (a rate of payment established by the federal government) of a monthly income as a limit for the concession of the "benefit" to judiciary assistance. The original text of Article 4, § 1, of Law n. 1060/50, foresaw the need to present a "poverty certificate" provided by the police or by the mayor, which was not required when there was proof that the applicant received a monthly income inferior to two minimum salaries. It cannot be denied that even at that time, the system was reasonably flexible, mainly in comparison to other existing systems in countries considered as developed, such as France and the United States.

month equivalent to US$ 900 per month or US$ 10.800 per year), and another group adopt the limit of 05 minimum salaries (currently, R$ 2.725,00 per month, equivalent to US$ 1.600 per month or US$ 19.200 per year). But these fixed criteria, pre-established in a general way, are not backed up by the present Brazilian legal constitutional and infra-constitutional system.

Likewise, there is not, in principle, in Brazilian law, a peremptory prohibition regarding the granting of legal aid to persons that have assets, particularly when it may be unproductive capital. This does not mean that the possession of assets is not an important factor in a global perspective to establish, or not, the legal condition to meet the classification of "needy." Nevertheless, there is not, beforehand, any legal prohibition for the granting of legal aid by the state in favor of a person who has patrimony, even if such patrimony is significant, especially when in concrete circumstances it is not reasonable (or, sometimes, not even possible) to demand that the person give up all or part of this patrimony in order to safeguard their rights or those of their family.

9. Legal aid scope

The scope of action of the right to legal aid is the most ample possible. The underlying idea to grant total effectiveness to the principle of legal isonomy was established by the Federal Constitution in such a way that social and economic inequalities may not be an impediment to the full exercise of the rights assured by the legal system to all Brazilians. Thus, in thesis, all of the relevant considerations of legal or judicial nature which a person (with financial resources to pay for such services) may have access to must be equally assured to the needy by the State, through the Public Defender's Office. Regarding this specific item of the "benefit's" scope, the main normative reference is also the text of Law n. 1060, of February, 5, 1950, which in its second article establishes that its application include the levels of criminal, civil, military or labor justice. In any field of the legal universe, it is possible to have conceded free and integral legal aid, be it for the support of interests in court or for the guidance and information on personal situations of a legal nature faced by the citizen in his/her daily lives

Another provision of Law n. 1060/1950, regarding the scope of the right under discussion, is Article 9, which establishes that "the benefits of judiciary assistance include all the acts of the lawsuit until the litigation's final decision in all stages of the lawsuit." Thus, once conceded, the benefit of gratuitousness of justice is automatically extended to all stages of the lawsuit necessary to the issue, also encompassing the interposition of appeals, the bringing

suit for incidental actions and the measures of judicial foreclosure to make the judgment materially effective. Therefore, there is no need for a new formal procedure to confirm the gratuitousness of justice granted, even when the decision on the merit of the case on the first jurisdiction is not favorable to the beneficiary: in this case, he/she is entitled to keep legal assistance (representation by a Public Defender and exemption of judicial fees), without the need to demonstrate the appeal's legal viability, except in the hypothesis of litigation of bad faith by interposition of appeals with the objective of delay, as foreseen in Article 17, Paragraph VII, of the Code of Civil Procedure, which can be applied to all litigants, sheltered, or not, by judiciary assistance. The revocation or annulment of the right of gratuitousness to justice can only occur based on the absence of the legal requirements regarding the situation of hyposufficiency or with the change of the beneficiary's patrimonial condition with no connection whatsoever to the eventual frailty of the legal thesis attempted to be sustained in the appeal phase.

Complementary Law 132 of 2009 brought about important innovations which might be interpreted as aiming to *expand even further the scope of protection of 'integral legal aid'*. The very definition – and the role – of the organization of the OPD has been amended in order to reflect such changes, as provided by Article 1 of Complementary Law 80 of 1994, amended by the 2009 reform, which reads:

> Article 1. The Office of Public Defenders is a permanent agency, essential to the judicial function of the State, authorized, as an expression and instrument of the democratic regime, to provide legal advice, promote human rights and defend in all levels, judicially and extra-judicially, the individual and collective rights of all needy, in a comprehensive manner and free of charge [...].

Some of the functions of the OPD have been essentially maintained by the new law: one can identify the general 'duty to provide advice and to defend the needy in all levels' (paragraph I); the correlate duty to guarantee the effectiveness of the principle of ample defense in all kinds of organs, all instances and in any lawsuit; the benefit of all needy who are defendants in lawsuits, including organizations (this encompasses commercial firms and their partners), as long as they are considered to be needy (paragraph V); the obligation to monitor criminal investigations when the suspect has not appointed a lawyer (paragraph XIV); the duty to initiate criminal lawsuits on behalf of victims when authorized by law (paragraph XV); the obligation to act as *curators ad litem* for those unable to respond for themselves (paragraph XVI); the duty to be physically present in prisons and youth detention sites with the purpose to assure prisoners' fundamental rights (paragraph XVII);

the task to defend the interests of the needy in small claims courts (paragraph XIX). As can be seen, these aim mainly to guarantee the principle of 'equality of arms' in the legal system. They fall in with the more classical concept of 'integral legal aid' and are more akin with the fourth objective of the OPD, as established by Article 3-A.

The following have been expanded or improved by the new law:
a.) The duty to promote, as a matter of priority, the extra-judicial solution of conflicts, through mediation, conciliation, arbitration or any other technique (paragraph II). The main significant change - in this case - was the addition of the *requirement of priority* and the statement that the means for achieving the non-judicial conflict resolution are open;
b.) The duty to defend consumer's rights and interests, individual or collective (paragraph VIII), the main addition being the direct reference to the possibility of filing collective lawsuits;
c.) The obligation to promote the most ample defense possible of the fundamental rights of the needy, encompassing individual, collective, social, economic, cultural and environmental rights, all types of lawsuits being allowed (paragraph X). What's new here is the emphasis on the fundamental rights of the needy and the guarantee that public defenders are free to use any kind of legal action to defend fundamental rights;
d.) The duty to defend the rights and interests, individual and collective, of children and adolescents, of the elderly, of disabled individuals, of women victims of domestic violence and any other vulnerable social group in need of special protection from the State (paragraph XI). Prior to the reform, the only openly mentioned vulnerable group was that of children and adolescents and there was no reference to the collective interests of vulnerable people.

The above mentioned lists indicate a greater concern with the poor's fundamental rights, the defense of vulnerable groups, and with a more effective legal system regarding their problems, either through extra-judicial mechanisms of conflict resolution or by emphasizing public interest and collective litigation. The innovations in the list examined below also maintain these concerns and further additions to the OPD's functions. According to these, the OPD must:

a.) promote the dissemination and the awareness of human rights, citizenship and the legal order among the poor (paragraph III);
b.) provide an interdisciplinary service to the needy, through its administrative organs (paragraph IV);
c.) petition in the international systems for the protection of human rights (paragraph VI);
d.) begin any type of collective lawsuit, when the expected result of litigation will benefit groups of individuals considered to be needy (paragraph

VII);
e.) file any lawsuit or remedy in defense of the OPD's own functions and public defenders' guarantees (paragraph IX);
d.) work to preserve and seek reparation for the violation of the rights of persons victim of torture, sexual abuse, discrimination or any other form of violation or oppression, providing support and interdisciplinary service to the victims (paragraph XVIII);
e.) participate of governmental meetings where the OPD's functions are being discussed (paragraph XX) and receive funds due to the OPD from judicial fees or any other public entity, under the obligation to establish special funds to manage such income. This income must pay only for infrastructure improvements of the institution and the training of public defenders and personnel (paragraph XXI);
f.) organize public consultations to discuss the OPD's functions and powers (paragraph XXII).

10. Legal Aid Expenditure

According to information provided by the Ministry of Justice, the average annual per capita expense in 2008 with services delivered by Public Defenders Offices was of R$ 8,32 (approximately US$ 5,00 per person). Total expenses with legal aid services delivered by Public Defenders Offices in 2008 were about R$ 1.415.562.000,00 (roughly equivalent to US$ 900.000.000,00). Expenses actually occurred in 2008 had an increase of about 35% in comparison to the previous year (2007) [13].

In Rio de Janeiro State, total expenses with legal aid services delivered by OPD in 2008 were about R$ 256.918.953,00 (equivalent to US$ 160.000.000,00).

11. Statistics

As indicated by the last annual survey carried out by the Ministry of Justice[14] on the number of new judicial cases – lawsuits – both of civil and criminal nature, in which at least one of the parties was represented/assisted by a Public Defender, performance is absolutely predominant in civil cases, maintaining the previous tendency of 73% lawsuits in the civil area.

[13] Source of these figures: III Diagnóstico da Defensoria Pública no Brasil, available at http://www.anadep.org.br/wtksite/IIIdiag_DefensoriaP.pdf
[14] Source: III Diagnóstico da Defensoria Pública no Brasil, available at http://www.anadep.org.br/wtksite/IIIdiag_DefensoriaP.pdf

Incoming cases in the Brazilian Public Defender System in 2008
(Lawsuits begun or answered by a party represented by a Public Defender)

Total: 1.266.818 (BRAZIL)
295.410 (Rio de Janeiro State)

Civil Cases: 886.800 (BRAZIL)
206.890 (Rio de Janeiro State)

Criminal Cases: 380.018 (BRAZIL)
88.520 (Rio de Janeiro State)