

Report: equality and non-discrimination, Gender policies and sexual and reproductive rights in Brazil

Introduction

In this document, Conectas Human Rights, Sexuality Policy Watch - SPW, Católicas pelo Direito de Decidir – CDD [Catholics for Choice], The human rights and LGBT+ citizenship research group at the Federal University of Minas Gerais - NUH/UFMG, Anis - Institute of Bioethics, Human Rights and Gender, The Brazilian Interdisciplinary AIDS Association - ABIA, and The Brazilian Lesbian, Gay, Bisexual, Transvestite, Transgender, and Intersex Association - ABGLT examine the government of Brazil in fulfilling its international obligations to guarantee the dignity and rights of all human beings without distinction of any kind, as condensed in the Universal Declaration of Human Rights, the International Agreement of Civil and Political Rights, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), among others. Article 3 of the Brazilian Federal Constitution states that the fundamental objective of the republic is to promote the well-being of all people, without prejudice of origin, sex, color, age, and any other forms of discrimination in favor of a fair, free, and solidary society (article 3 inc. I).

In this report, we analyze the fulfilment of some commitments made by the Brazilian state, specifically, regarding the eradication of violence against women, access to sexual and reproductive health for girls and women; equality and non-discrimination based on sexual orientation and gender identity, as well as the creation of constitutional legal frameworks in accordance with the assumed obligations on Human Rights.

For this, the implementation of the recommendations received by Brazil during the 3rd cycle of the UPR (2017) related to these issues was evaluated, bringing a series of considerations, and data that can elucidate the current situation of gender policy in Brazil, to finally provide some action-oriented recommendations.

I. The anti-gender offensive as an obstacle to the promotion and defense of human rights

1. Several studies and SPW¹ reports show that in recent years, the Brazilian government has assumed a reactionary position on gender and sexuality, a fundamental debate for the defense of women's rights and the LGBTI population. Through rhetoric and policies the category of gender is distorted and reduced in the perspective of the “biologization” of its expressions and identities. Denying its role in the defense and promotion of equity, official policy has contributed to the regression of rights, promoting feelings of aversion to public policies based on the recognition of the diversity of gender and sexuality.
2. The ideological bias of the Bolsonaro government (2018-2022) expressed in the use and defense of the syntagma "gender ideology" has operated as a systematically disseminated device at the regional and national level strengthening restrictive legislative proposals with respect to the rights of gender diversity and sexuality in education, in healthcare, in public security, and in social welfare policies, as well as sustaining anti-gender positions in the country's human rights policy guidelines and in foreign policy.
3. The term "gender ideology" has been widely used in the context of attacks on public education. Debates around the National Education Plan (PNE) from 2014 to 2024 revealed a strong articulation of conservative religious groups (Catholics and Evangelicals) to combat this supposed "ideology" within schools, which led, in fact, to the exclusion of the terms gender and sexuality from the PNE's final guidelines. In 2017, for example, the Ministry of Education removed the debate on gender and sexuality from the curriculum baseline.²
4. The fight against "gender ideology", the defense of "traditional values" and the "family values" have been the central principles of the National Human Rights Policy promoted by the Ministry of Women, Family and Human Rights (MMFDH) in the last 4 years. It is worth pointing out that in relation to the defense of the family, no parameters are offered for the recognition of the diversity of family structures in Brazil. On the other hand, the gender issue is reduced to a moral, “biologizing”s and restricted debate, ignoring its centrality as a human rights premise and its potential to promote an education for inclusion and anti-discrimination.

II. The Ministry of Women, Family and Human Rights (MMFDH)

¹ "Ofensivas anti-gênero no Brasil: Políticas de Estado, legislação, mobilização social", Sexuality Policy Watch, October 21, 2021, accessed March 28, 2022, <https://sxpolitics.org/ptbr/ofensivas-antigenero-no-brasil-politicas-de-estado-legislacao-mobilizacao-social/12156>; "Propagação de discursos sobre 'ideologia de gênero' no Brasil", Sexuality Policy Watch, August 26, 2021, accessed March 28, 2022, <https://sxpolitics.org/ptbr/propagacao-de-discursos-sobre-ideologia-de-genero-no-brasil/10046>; and "Políticas antigênero na América Latina. Estudos de Caso", Sexuality Policy Watch and Género & Política en América Latina, August 2, 2021, accessed March 28, 2022, <https://sxpolitics.org/GPAL/uploads/resumos-pt/E-book-Resumos-PT-02082021.pdf>.

² "MEC retira debate sobre gênero e sexualidade da base curricular", Sexuality Policy Watch, April 13, 2017, accessed March 28, 2022, <https://sxpolitics.org/ptbr/mec-retira-debate-sobre-genero-e-sexualidade-da-base-curricular/7340>.

- Anti-gender offensive as state policy

5. The language and national human rights instruments have been resignified in the configuration of the MMFDH, in which a new semantics accompanies official discourses, fueling anti-gender feelings as well as mobilizing public policy programs opposing the human rights field itself. In this way, instead of being a bastion of the defense and the promotion of human rights, the Ministry may be contributing to the reproduction of discriminatory discourses and practices.

6. It is possible to find this kind of political materiality in the Taxonomy Manual produced by the MMFDH from 2020 as a guide for the classification of accusations of gender and sexual violence within the scope of the Dial 100 line. This manual not only includes the term "gender ideology" as an aggravation of the allegedly violent act reported as institutional violence, but also removed gender identity from its grammar, although we have its recognition in at least two key decisions promoting and recognizing the rights of trans people by the Supreme Court. The referred manual creates resignifications that are regressive in relation to the understanding of violence against the LGBTI population in the country, as it removes homophobia and transphobia as violence and transsexual identities as one of the identities in the LGBTI group.

7. The improper use of the Dial 100 line, a service for the dissemination of information about the rights of vulnerable groups and for reporting human rights violations, specifically aimed at helping children and teenagers, the elderly, people with special abilities, the LGBTI population, and the homeless population, among others,³ has serious unconstitutional consequences. Despite its institutional purpose, it is being used for ideological persecution of teachers⁴ - supported by the fight against "gender ideology" understood by this government as institutional violence, and the defense of an anti-covid-19 vaccine discourse.⁵

8. This distortion of purpose affects the already scarce data on human rights violations, especially among LGBTI people, affecting an entire segment of the population that is deprived of reliable information and data. The misuse of Dial 100 means the attack and weakening of a human rights protection tool, and with it, an entire national system, hurting the idea of immediate effectiveness of fundamental rights and duties under international law in general.

³ "Denunciar violação de direitos humanos (Disque 100)", Brazilian Government, July 9, 2021, accessed March 28, 2022, <https://www.gov.br/pt-br/servicos/denunciar-violacao-de-direitos-humanos>.

⁴ "Governo é denunciado no STF por usar Disque 100 para perseguição política", UOL Notícias, February 9, 2022, accessed March 28, 2022, <https://noticias.uol.com.br/colunas/jamil-chade/2022/02/09/governo-e-denunciado-no-stf-por-usar-disque-100-para-perseguiçao-politica.htm?cmpid=copiaecola>; and Andrea DiP, "'Ideologia de gênero' no Disque 100 pode criminalizar professores, diz pesquisador". Pública, December 14, 2021, accessed March 28, 2022, <https://apublica.org/2021/12/ideologia-de-genero-no-disque-100-pode-criminalizar-professores-diz-pesquisador/>.

⁵ Against this state arbitrary practice, an Argument of Noncompliance with a Fundamental Precept (ADPF) was filed at the STF by the National Confederation of Education Workers (CNTE) and the National Confederation of Health Workers (CNTS), which warn about abuses and ask for urgent measures from the Judiciary.

9. It is worth noting that the data from Dial 100 was, until previous governments, a mechanism for federal pacts with states to organize regional and local networks to confront violence against vulnerable people. In this sense, it is urgent that Brazil reallocate its tools for the protection of human rights and the promotion of the rights of vulnerable minorities as a policy to guarantee state action to strengthen democracy.

- Weakening of public policies for women

10. Beyond the strengthening of alliances with countries like Hungary, Poland, the United Arab Emirates, Syria, among others harshly criticized for their position on human rights, especially for defending anti-gender and anti-abortion guidelines, one characteristic of the work of the MMFDH in foreign policy, is the presentation of results detached from reality. There are strong discrepancies between the data presented by the government in relation to public policies aimed at the elimination of all forms of violence against women and the actual execution of such policies.

11. At the 2021 UN Human Rights Council, Minister Damares Alves affirmed the creation of mechanisms to receive complaints of political violence against women and the increase in the portfolio's budget for measures to protect women, without even mentioning the three years of impunity that cover the assassination of Marielle Franco, a Rio de Janeiro councilwoman, in 2017. Likewise, at the 66th Session of the Commission on the Status of Women (CSW) recently held in New York (2022), the minister reinforced the government's commitment to the agenda, stressing greater investment in actions aimed at women.

12. These statements notwithstanding, the Bolsonaro government has made significant budget reductions for the portfolio, concretely threatening the execution of policies to confront violence.⁶ In 2020, a consultancy from the Chamber supported the Human Rights Commission's response to the UN special rapporteur on violence against women through a technical note that confirmed the data released by the Institute for Socioeconomic Studies (Inesc)⁷ on the underfunding and low budget execution of the MMFDH for the prevention and combat of violence against women.

13. According to data from the Federal Government's integrated planning and budget system, the MMFDH has spent only half of the proposed budget for 2021.⁸ In more than one year, the

⁶ Vitória Régia da Silva, "Má execução do orçamento ameaça políticas de enfrentamento à violência contra mulheres para 2022". Gênero e Número, November 23, 2021, accessed March 28, 2022, <https://www.generonumero.media/orcamento-mulheres-2022/>.

⁷ Carmela Zigoni and José Antonio Moroni, "Há recursos para salvar as mulheres na pandemia: Damares precisa gastar". Instituto de Estudos Socioeconômicos, May 21, 2020, accessed March 28, 2022, <https://www.inesc.org.br/ha-recursos-para-salvar-as-mulheres-na-pandemia-damares-precisa-gastar/>.

⁸ Havolene Valinhos, "Ministério de Damares tem em 2022 menor orçamento para mulheres em 4 anos". Folha de S.Paulo, March 8, 2022, accessed March 28, 2022, <https://www1.folha.uol.com.br/cotidiano/2022/03/ministerio-de-damares-tem-em-2022-menor-orcamento-para-mulheres-em-4-anos.shtml?origin=folha>.

portfolio has not used 50% of the initial budget allocation.⁹ Since 2016, when there was a significant drop in the transfer of funds for women's policies,¹⁰ the decrease in federal investment for this agenda has been constant.

III. Women's human rights and gender equality: gender violence

14. The rights of all women need to be respected and promoted, including, without any distinction, the safeguarding of the rights of transgender and transvestite women. And the full exercise of citizenship and equality for women can only be guaranteed through the eradication of all forms of violence, in accordance with CEDAW.

15. During the examination of Brazil in the 3rd cycle of the UPR, the Brazilian government received and accepted 17 recommendations related to fighting violence against women. Nevertheless, there has been an upsurge in domestic and sexual violence against women in recent years,¹¹ aggravated by the pandemic context resulting from Covid- 19, which continues to confirm the insecurity of the private space for women and girls.¹²

16. On the other hand, thanks to the already mentioned changes in relation to gender politics in Brazil, the current government has reduced gender violence to an issue that only affects women biologically recognized as such and only in the sphere of public safety. This policy became represented by acts of imprisonment of the accused or rapists, leaving aside the educational work, social assistance, networks to confront violence, and public policies that ensure not only the protection but also the promotion of rights of vulnerable groups.

17. The latest edition of the Anuário of Brazilian Public Security 2021, reported that even with the decrease in registrations, perhaps related to the isolation measures required during the COVID-19 pandemic, the numbers are of great magnitude. In 2020 the country had 3,913 homicides of women, of which 1,350 were registered as femicides, an average of 34.5 percent of all murders.¹³ However, analyzing the context of lethal violence against girls and women

⁹ Recently, the Federal Public Ministry opened an investigation to investigate the impacts of this low budget execution on the public policies covered by the agency responsible for the protection of human rights, especially women's rights. More information can be found at: "Ministério Público investiga Ministério de Damares por não utilizar verba disponível na pasta", Fundação Padre Anchieta, October 18, 2021, accessed March 28, 2022, https://cultura.uol.com.br/noticias/43057_ministerio-publico-investiga-ministerio-de-damares-por-nao-utilizar-verba-disponivel-na-pasta.html.

¹⁰ Tai Nalon and Sérgio Spagnuolo, "Crise derruba investimento federal em políticas para mulheres". AOS FATOS, March 7, 2017, accessed March 28, 2022, <https://www.aosfatos.org/noticias/crise-derruba-investimento-do-governo-em-politicas-para-mulheres/>.

¹¹ "Brasil teve um estupro a cada 10 minutos e um feminicídio a cada 7 horas em 2021", G1 DF, March 7, 2022, accessed March 28, 2022, <https://g1.globo.com/dia-das-mulheres/noticia/2022/03/07/brasil-teve-um-estupro-a-cada-10-minutos-e-um-feminicidio-a-cada-7-horas-em-2021.ghtml>.

¹² "Epidemia sombra ignorada pela Lei", Futuro do Cuidado, August 19, 2020, accessed March 28, 2022, <https://futurodocuidado.org.br/violencia-domestica-em-pauta-na-pandemia/>.

¹³ "Anuário Brasileiro de Segurança Pública", Fórum Brasileiro de Segurança Pública, 2021, accessed March 28, 2022, p. 94, <https://forumseguranca.org.br/wp-content/uploads/2021/10/anuario-15-completo-v7-251021.pdf>.

requires looking at all female homicides, given that Brazil's legislation on feminicides dates back to 2015, and the data gathered depends largely on the advances that each state and their respective police forces have made in the investigation and typification of gender-based violence.¹⁴ This highlights the probability that many cases of feminicide have been classified only as homicides.¹⁵

18. Likewise, the numbers of sexual violence also continue to climb. In the Anuário of 2021, the Brazilian Public Security Forum analyzed 60,926 registers of sexual violence in Brazil, dated 2020 and coming from the police reports drawn up by the Civil Police. Out of these records, 16,047 represented cases of rape of adult women and 44,879 of vulnerable people (according to Brazilian law, people under 14 years old or unable to consent to the act, either due to infirmity or disability, or for not having the discernment to do so).¹⁶

19. According to data collected by the Brazilian Public Security Forum 2022 and anticipated in allusion to the March 8th celebrations, in 2021, 56,098 rapes were reported (including rapes of the vulnerable and females), which represents an increase of 3.7% over the previous year.¹⁷ In other words, in 2021, a girl or woman was a rape victim every 10 minutes in the country, considering only the cases that reached the police authorities.¹⁸

20. In a report sent in June 2020 to the National Council on Human Rights (CNDH), the Brazilian State reported that, in recent years, the country has carried out some legislative reforms aimed at criminalizing conducts and establishing policies to fight violence against women. The report does not mention, however, how these policies have been implemented and their effectiveness, nor whether the policies consider the specificities of the victims - while violence against white women has decreased in recent years, violence against black and poor women has increased.

21. The complexity involved in the analysis of violence data is increasingly evident when gender and race intersect, with an overrepresentation of black people among the victims. Taking as an example the crimes that result in death, in the year 2020, among the victims of feminicide, 61.8% were black, 36.5% white, 0.9% yellow, and 0.9% indigenous. Among the victims of the other homicides of women, 71% were black, 28% were white, 0.2% were indigenous, and 0.8% were yellow in the same year.¹⁹

¹⁴ In Ceará, for example, only 8.2% of all murders of women recorded in 2020 were classified as feminicides, a percentage much lower than the national average of 34.5%. Source: "Anuário Brasileiro de Segurança Pública", Fórum Brasileiro de Segurança Pública, 2021, accessed March 28, 2022, p. 95, <https://forumseguranca.org.br/wp-content/uploads/2021/10/anuario-15-completo-v7-251021.pdf>.

¹⁵ *Ibid.*, p. 95.

¹⁶ *Ibid.*, p. 110.

¹⁷ "Violência contra mulheres em 2021", Fórum Brasileiro de Segurança Pública, 2021, accessed March 28, 2022, p. 2, <https://assets-dossies-ipc-v2.nyc3.digitaloceanspaces.com/sites/3/2022/03/violenci-contra-mulher-2021-v5.pdf>.

¹⁸ It is important to emphasize that sexual crimes are highly unreported, and the lack of periodic victimization surveys makes it even more difficult to measure them.

¹⁹ "A violência contra meninas e mulheres no ano pandêmico", Fórum Brasileiro de Segurança Pública, 2021, p. 97,98, <https://forumseguranca.org.br/wp-content/uploads/2021/10/anuario-15-completo-v7-251021.pdf>

IV. Political violence against women

22. Two recommendations made to the Brazilian state dealt specifically with promoting greater political participation of women: (134. 197 from East Timor) and (136. 198 from Belgium). Despite the acceptance of the recommendations, in Brazil, political gender violence, racism, and sexism continue to be barriers to the candidacies and political action of black, transgender, and indigenous women.²⁰

23. According to the Marielle Franco Institute (IMF)²¹, in 2020 a series of threats against elected parliamentarians were registered. Cases such as those of Ana Lúcia Martins, Carol Iara, Erika Hilton, and Samara Sosthenes, were central to the construction of advocacy strategy to demand from the state a safe political system for all people, especially for black, LGBTI+ and peripheral women who are willing to occupy decision-making positions in politics.

24. The impunity in the Marielle Franco case is a milestone in terms of human rights violations, and a threat to women's participation in politics and government. The case continues to be the reason for a permanent and collective articulation in search of answers and justice. In August 2021, as a result of this work, the creation on March 14 of Marielle Franco Day to confront political violence against black, LGBTI+ and peripheral women was approved in the Rio de Janeiro City Council.

25. The greater participation of women in politics (136.197) must go hand in hand with effective measures to include women at all levels of decision-making (136.198). To this end, the Brazilian state must ensure adequate conditions for their permanence, as well as guarantee safe spaces for the exercise of their political functions, without any type of discrimination.

26. As important actions on the path to implementing these measures, it is worth highlighting Law No, 14,192, of August 4, 2021²², which establishes norms to prevent, repress, and combat political violence against women. This legislative reform is a significant advance in women's political rights in Brazil. According to this law, political violence against women is any action, conduct, or omission with the purpose of preventing, hindering, or restricting women's political rights. Threats, insults, aggression, harassment, attempted murder, and assassination are some of the ways in which the human rights of women candidates and elected officials are violated. All women are victims of these attacks, but black, lesbian, bisexual, transvestite, and transgender women are prime targets because they intersect other social markers.

²⁰ "Violência política e racismo são apontadas como barreiras para candidaturas de mulheres indígenas", Portal da Câmara dos Deputados, March 22, 2022, accessed March 28, 2022, <https://www2.camara.leg.br/a-camara/estruturaadm/secretarias/secretaria-da-mulher/noticias/violencia-politica-e-racismo-sao-apontadas-como-barreiras-para-candidaturas-de-mulheres-indigenas>.

²¹ "Retrospectiva 2021", Instituto Marielle Franco, 2021, accessed March 28, 2022, <https://www.institutomariellefranco.org/2021#4>.

²² "Lei No. 14.192, de 4 de agosto de 2021", Secretaria Geral da Presidência da República, August 4, 2021, accessed March 28, 2022, http://www.planalto.gov.br/ccivil_03/ato2019-2022/2021/lei/L14192.htm.

27. On the other hand, and as a second important and positive action, the Superior Electoral Court (TSE) launched in March 2022 the Women's Ombudsman's Office,²³ created to prevent and combat cases of harassment, discrimination and other forms of abuse suffered by women, especially political violence. An instrument that, besides giving visibility to the specificity of this type of violence against women, is a step towards the recognition of the institutional obstacles that women face in the exercise of their participation in Brazilian politics. It is up to the state to ensure, through this resource, a specialized treatment in the attendance, reception, and forwarding of the demands that deal with situations of gender violence.

IV. Access to sexual and reproductive healthcare services and the right to abortion

28. In the last UPR, Brazil received four recommendations on access to sexual and reproductive healthcare services (136.158) (136.159) (136.160) (136.161). However, in recent years, the subscribing organizations have been following with concern a strong political movement to prevent any progress on this topic, including the implementation of projects to set back the agenda, neglecting the accepted recommendations.

29. Anti-gender policies in Brazil were superimposed on the older infrastructure of opposition to sexual and reproductive rights and, especially, the right to abortion. The country still criminalizes the practice of abortion, except in cases of rape, the risk to the life of the woman, and, by decision of the Federal Supreme Court (STF) handed down in 2012, anencephaly.²⁴ A Claim of Noncompliance with a Fundamental Precept (ADPF 442) that discusses the decriminalization of abortion has been before the Supreme Court since 2017, this action has so far not been judged.

30. Opposed to the commitment to adopt friendly and quality sexual and reproductive health policies that recognize affection and respect the progressive autonomy of children and youth, the Brazilian government bets on a moral discourse that denies them the quality of subjects of sexual and reproductive rights, implementing measures that prevent access to healthcare and the combat to sexual violence.

31. In 2020, Minister Damares Alves, current holder of the MMFDH, announced that she was considering adopting the promotion of sexual abstinence as an effective method. After strong criticism from the civil society, the Minister launched a campaign that, although did not

²³ "TSE lança Ouvidoria da Mulher para combater violência política de gênero", Tribunal Superior Eleitoral, March 21, 2022, accessed March 28, 2022, <https://www.tse.jus.br/imprensa/noticias-tse/2022/Marco/tse-lanca-ouvidoria-da-mulher-para-combater-violencia-politica-de-genero-1>.

²⁴ Claim of Noncompliance with a Fundamental Precept (ADPF) n. 54, judged in April 2012.

mention sexual abstinence explicitly, ignores the use of contraceptive methods, following religious and moralist narratives around the exercise of sexuality in youth.²⁵

32. In 2020, Minister Damares publicly manifested against the access of a ten-year-old girl, a victim of sexual violence, to legal abortion. The case reverberated in the press after a public hospital refused to perform the abortion procedure, on the grounds of technical impossibility. However, it gained greater notoriety after an extremist activist released the girl's data and the name of the hospital on her social media, violating Brazilian legislation.²⁶ It was reported that Minister Damares directly acted behind the scenes to prevent the girl's access to abortion.²⁷

33. After the event, the Ministry of Health published ordinances that, instead of fulfilling Brazil's commitment to expanding access to termination of pregnancy, imposed even more obstacles to access to the service, in addition to promoting disinformation about the procedure and coercion of the women. In its first version, the ordinance (i) instituted compulsory notification to the police in case of suspected rape; (ii) determined that the possibility of viewing the fetus or embryo using ultrasound should be offered; and (iii) forced doctors to provide inaccurate information about the risks of legal and safe abortion. After a reformulation resulting from the pressure of the civil society and justice institutions, compulsory notification to the police was maintained. This was opposed to measures such as the exemption of police registration for access to abortion, implemented in previous governments, which were based on evidence that reporting at the time of access to healthcare services does not contribute to the effective protection of women and girls.

34. The Covid-19 pandemic was an opportunity for the government to reinforce measures contrary to international human rights recommendations, such as that sexual and reproductive healthcare services should not be interrupted during this period, published by the World Health Organization (WHO) and the Pan American Health Organization (PAHO).

²⁵ Andréa Martinelli, "Governo troca abstinência sexual por 'tudo tem seu tempo' em campanha contra gravidez precoce". Agência Patrícia Galvão, February 3, 2020, accessed March 28, 2022, <https://agenciapatriciagalvao.org.br/mulheres-de-olho/dsr/governo-troca-abstinencia-sexual-por-tudo-tem-seu-tempo-em-campanha-contra-gravidez-precoce/>; and "'Tudo tem seu tempo': a campanha de Damares contra gravidez precoce", February 4, 2020, accessed March 28, 2022, <https://noticias.uol.com.br/ultimas-noticias/deutschewelle/2020/02/04/tudo-tem-seu-tempo-a-campanha-de-damares-contra-gravidez-precoce.htm>.

²⁶ "Nota de esclarecimento: Sara Winter nunca foi secretária da mulher", Ministério da Mulher, da Família e dos Direitos Humanos, May 5, 2020, accessed March 28, 2022, <https://www.gov.br/mdh/pt-br/assuntos/noticias/2020-2/maio/nota-de-esclarecimento-sara-winter-nunca-foi-secretaria-da-mulher>

²⁷ Allan de Abreu, "A menina, o poder e o direito". Revista Piauí, August 18, 2020, accessed March 28, 2022, <https://piaui.folha.uol.com.br/menina-o-poder-e-o-direito/>; and Carolina Vila-Nova, "Ministra Damares Alves agiu para impedir aborto em criança de 10 anos". Folha de S.Paulo, September 20, 2020, accessed March 28, 2022, <https://www1.folha.uol.com.br/cotidiano/2020/09/ministra-damares-alves-agiu-para-impedir-aborto-de-crianca-de-10-anos.shtml>. Currently, there is an investigation underway into whether advisors sent by the Minister to the state where the girl lives may have pressured the authorities and leaked the confidential data

35. Also in 2020, two officials from the Ministry of Health were dismissed after signing a technical opinion on women's healthcare service during the pandemic,²⁸ which recommended guidance and access to contraceptive methods to reduce unplanned pregnancy and demonstrated concern about the possible increase in the maternal mortality rate in the country due to the lack of medical attendance. Maternal mortality in the Brazilian context is alarming, with abortion being the fourth leading cause.²⁹

36. According to a survey developed by civil society organizations, only 55% of hospitals that offered termination of pregnancy in 2019 continued to operate in 2020.³⁰ The difficulty in accessing contraceptive methods was also intensified during the pandemic: the offer of sterilization and intrauterine device in the Unified Health System dropped by 40% in 2020³¹. There was a 17% reduction in the Ministry of Health's spending on contraceptive supplies^{32,33}.

37. The lack of transparency of data on sexual and reproductive health prevented greater control by civil society over the guarantee of services and supplies in the country during the pandemic. It was not possible to access updated data on the availability of contraceptive methods in the public system.³⁴

38. Legal abortion through telehealth is a safe and effective alternative adopted by many countries to ensure the continuity of the service in the pandemic. In Brazil, the procedure was implemented in a pioneering way by the Center for Integral Attention to Victims of Sexual Assault (NUAVIDAS), from the Federal University of Uberlândia, in the state of Minas Gerais,

²⁸ "Funcionários do Ministério da Saúde são exonerados por nota sobre atendimento à mulher", *Jornal Nacional*, June 5, 2020, accessed March 28, 2022, <https://g1.globo.com/jornal-nacional/noticia/2020/06/05/funcionarios-do-ministerio-da-saude-sao-exonerados-por-nota-sobre-atendimento-a-mulher.ghtml>.

²⁹ Sávía Cassia and Heloísa de Souza, "Aborto é a quarta causa de morte materna no Brasil", afirma pesquisadora". *Brasil de Fato*, July 31, 2018, <https://www.brasildefato.com.br/2018/07/31/aborto-e-a-quarta-causa-de-morte-materna-no-brasil-afirma-pesquisadora>; and Mikaella Mozer, "Brasil tem 55,82 de taxa de mortalidade materna, e o aborto é uma das principais causas, segundo pesquisa". *Revista Universidade*, March 23, 2021, accessed March 28, 2022, <https://blog.ufes.br/revistauniversidade/2021/03/23/brasil-tem-5582-de-taxa-de-mortalidade-materna-e-o-aborto-e-uma-das-principais-causas-segundo-pesquisa/>.

³⁰ Vitória Régia da Silva and Letícia Ferreira, "Só 55% dos hospitais que ofereciam serviço de aborto legal no Brasil seguem atendendo na pandemia". *Gênero e Número*, June 2, 2020, accessed March 28, 2022, <https://www.generonumero.media/so-55-dos-hospitais-que-ofereciam-servico-de-aborto-legal-no-brasil-seguem-atendendo-na-pandemia/>.

³¹ Leda Antunes, "Impacto da pandemia nos serviços de planejamento familiar faz oferta de DIU e laqueadura pelo SUS cair mais de 40%". *O Globo*, May 28, 2021, accessed March 28, 2022, <https://oglobo.globo.com/celina/impacto-da-pandemia-nos-servicos-de-planejamento-familiar-faz-oferta-de-diu-laqueadura-pelo-sus-cair-mais-de-40-25028586>.

³² *Ibid.*

³³ In response to information access requests presented by researchers from Anis – Bioethics Institute, reductions in tests for the detection of sexually transmitted infections were communicated, such as those related to syphilis, HIV, hepatitis B, and C, as well as reductions in the treatment of such diseases, in some states of the country.

³⁴ The Ministry of Health responded to an access to information request by Anis that this information was confidential and could "endanger national security or public health," even though the access to information law guarantees this access.

in partnership with Anis. This service contributes to the continuity of sexual and reproductive healthcare services during the pandemic and the reduction of previous barriers to access. However, the service, as well as the responsible healthcare professionals, has been the target of several attacks, including from the federal government.³⁵

39. In June 2021, the Ministry of Health, without evidence and with dishonest reasoning, suggested that the procedure was not authorized, as it was risky and put women in danger³⁶. The note, although not with normative character, warns about threats of criminalization of the procedure and healthcare professionals, based on a perspective contrary to international recommendations, health evidence, and ideologically oriented.

40. Sanitary regulations that impose excessive restrictions on the use of misoprostol are one of the obstacles to the expansion of access to sexual and reproductive healthcare services in Brazil. These norms were the central foundation of the attacks on the telehealth abortion service. Of the six South American countries compared (Argentina, Bolivia, Brazil, Colombia, Peru, and Uruguay), Brazil is the only one that does not make the drug directly available to women in pharmacies or healthcare services.³⁷ Misoprostol is subject to an exceptional regulatory regime compared to other “medicines subject to special control”. Under this regime, the substance is restricted to hospital use and is subject to a series of unnecessary administrative requirements. Although during the pandemic, telemedicine, and home delivery of medicines with the same classification were authorized, the existence of specific regulations on misoprostol served as a foundation for the offensive against the right to abortion.³⁸

41. Together with the restrictive regulation of misoprostol is the unavailability of mifepristone in Brazil. In other countries, the medication is used in combination with misoprostol, increasing abortion effectiveness rates. The isolated use of misoprostol, although allowing for effective and safe termination of pregnancy, tends to take longer and to have more side effects. Both drugs are safe and increase the quality of sexual and reproductive healthcare services in the country, so regulatory barriers are not justified.

³⁵ In 2021, the national human rights defender and the regional prosecutor for citizens' rights in the state where the hospital is located sent a recommendation from the Ministry of Health calling for the suspension of the telehealth abortion service and requesting the opening of investigations into alleged "illegal procedures" performed by NUAVIDAS. "Procedimento de aborto não pode ser feito por telemedicina", Ministério da Saúde, June 7, 2021, accessed March 28, 2022, <http://aps.saude.gov.br/noticia/12596>.

³⁶ Fernanda da Escóssia and Luigi Mazza, "Aborto remoto, preconceito de perto". Revista Piauí, June 3, 2021, accessed March 28, 2022, https://piaui.folha.uol.com.br/aborto-remoto-preconceito-de-perto/?utm_campaign=a_semana_na_piaui_60&utm_medium=email&utm_source=RD+Station.

³⁷ "Mifepristone y Misoprostol en seis países de América Latina: procesos de registro y disponibilidad", Consorcio Latinoamericano Contra El Aborto Inseguro, 2017, accessed March 28, 2022, <https://clacaidigital.info/handle/123456789/1000>.

³⁸ "Resolução - RDC No. 357, de 24 de março de 2020", Diário Oficial da União, March 24, 2020, accessed March 28, 2022, <http://www.in.gov.br/en/web/dou/-/resolucao-rdc-n-357-de-24-de-marco-de-2020-249501721>; and "Lei No. 13.989, de 15 de abril de 2020", Secretaria-Geral da Presidência da República, August 19, 2020, accessed March 28, 2022, http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2020/lei/L13989.htm

42. The government's lack of commitment to the integral sexual and reproductive health of women was also manifested through the vaccination policy against Covid-19. Despite evidence that pregnancy and the puerperium are risky circumstances for the disease, as well as the high number of maternal deaths from Covid-19 in the country, pregnant and postpartum women, were belatedly included as a priority group for vaccination, only in the 6th edition of the national immunization plan.³⁹

43. The federal government's denialist and negligent attitude towards health and sexual and reproductive rights caused, throughout the pandemic, the absence of a national campaign of information and awareness about vaccination. As a result of the lack of information and the contradictory and inconsistent measures related to vaccination during pregnancy, there was great insecurity and concern among women, which may have impacted vaccine adherence rates.⁴⁰

44. It is possible that, during the pandemic, antenatal care services were provided inadequately. A group of researchers identified that there are women who died without the necessary attention: many of them did not have access to intensive care units or were not intubated when they needed it⁴¹. There are also cases of women who died after being subjected, often without adequate scientific information and consent, to the inhalation of hydroxychloroquine, an inadequate treatment for Covid-19⁴².

45. In October 2020, the government published a legislative decree for the Federal Development Strategy for Brazil from 2020 to 2031, which establishes as a goal for the guarantee of fundamental rights and citizenship the promotion of the right to life “from conception to natural death”, “observing the rights of the fetus”, through “policies of responsible parenthood, family planning and care for pregnant women”. The decree goes against the recognition of women as subjects of rights who must have control over their

³⁹ In 2021, the Ministry of Health suspended vaccination of pregnant and postpartum women without comorbidities based on a single rare adverse event in a pregnant woman who received a specific immunizer, despite evidence that the benefits outweigh the possible risks and death rates. Maria Eduarda Cardim, "Ministério da Saúde suspende vacinação de grávidas e puérperas sem comorbidades". *Correio Braziliense*, May 11, 2021, accessed March 28, 2022, <https://www.correio braziliense.com.br/brasil/2021/05/4923792-ministerio-da-saude-suspende-vacinacao-de-gravidas-e-puerperas-sem-comorbidades.html>.

⁴⁰ Lianne Ceará, "Entre a cegonha, o medo e a vacina". *Revista Piauí*, May 14, 2021, accessed March 28, 2022, <https://piaui.folha.uol.com.br/entre-cegonha-o-medo-e-vacina/>; and "Com medo de efeitos colaterais, número de grávidas vacinadas está abaixo do esperado", *R7*, May 29, 2021, accessed March 28, 2022, <https://noticias.r7.com/jr-na-tv/videos/com-medo-de-efeitos-colaterais-numero-de-gravidas-vacinadas-esta-abai-xo-do-esperado-29052021>.

⁴¹ Debora de Souza Santos *et al.*, "Disproportionate Impact of Coronavirus Disease 2019 (COVID-19) Among Pregnant and Postpartum Black Women in Brazil Through Structural Racism Lens", *Clin Infect Dis*. 72 (11): 2068-2069, accessed March 28, 2022, <https://pubmed.ncbi.nlm.nih.gov/32719866>

⁴² "Médica que tratou grávidas com Covid com nebulização de hidroxicloroquina no AM diz que usou 'último recurso disponível'", *G1*, April 18, 2021, accessed March 28, 2022, <https://g1.globo.com/am/amazonas/noticia/2021/04/18/médica-que-tratou-gravidas-com-covid-com-nebulizacao-de-hidroxicloroquina-no-am-diz-que-usou-ultimo-recurso-disponivel.ghtml>.

sexuality and reproduction, by conveying the idea that the fetus is the holder of rights that may override women's rights⁴³.

46. Currently, there are around 72 bills in the National Congress that seek to restrict the right to abortion. Of the four constitutional amendments introduced between 2012 and 2017 to consecrate the right to life since conception, two are still being considered. Since 2007, the Statute of the Unborn has been processed to make abortion totally illegal in the country. Data collected by the Feminist Center for Studies and Advisory - Cfemea show that, in 15 years, the Statute of the Unborn had 19 projects added. Of these, 12 were presented in this legislature.

VI. Discrimination and incitement to violence against LGBTI people

47. The recommendations made in the 3rd cycle of the UPR ask Brazil to adopt specific legislative measures against discrimination and violence based on sexual orientation and gender identity: (136.39) (136.40) (136.41) (136.43) (136.49).

48. Despite these recommendations, in recent years legislative and political attacks against gender and sexual diversity in the country have been evident. The main targets of these attacks are the three Brazilian institutional protocols that regulate the access rights of transsexual people to the public healthcare system: (i) the second version of the ordinance on the Transsexualizing Process⁴⁴; (ii) the technical opinion of the Federal Council of Medicine that regulates the hormonal treatment for gender incongruence in childhood, youth and adulthood⁴⁵; and (iii) the Resolution 1/2018 of the Federal Council of Psychology, which prevents the use of conversion therapies for transsexuality and promotes the combat to transphobia⁴⁷.

49. In the same direction, several legislative proposals aligned with this perspective have already been presented to the Federal Congress and state and municipal legislatures. For example, the draft of Legislative Decree 19/2020, which proposes the suspension of the Federal Council of

⁴³ "Decreto No. 10.531, de 26 de outubro de 2020", Secretaria-Geral da Presidência da República, October 26, 2020, accessed March 28, 2022, http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2020/decreto/D10531.htm.

⁴⁴ "Portaria No. 2. 803, de 19 de novembro de 2013", Ministério da Saúde, November 20, 2013, accessed March 28, 2022, http://bvsms.saude.gov.br/bvs/saudelegis/gm/2013/prt2803_19_11_2013.html.

⁴⁵ It is important to note that the protocol, while guaranteeing access to biomedical interventions, is still based on problematic technical assumptions.

⁴⁶ Similarly, this movement has persuaded state and federal legislators to draft bills aimed at prohibiting both the recognition of gender diversity among children and, above all, the provision of hormone therapies and puberty blockers to persons under the age of.

⁴⁷ Luana Spinillo, "Transexualidade não é transtorno mental, oficializa OMS". Conselho Federal de Psicologia, May 22, 2019, accessed March 28, 2022, <https://site.cfp.org.br/tag/resolucao-01-2018/#:~:text=Com%20a%20Resolu%C3%A7%C3%A3o%2001%2F2018,forma%20de%20preconceito%20ou%20discrimina%C3%A7%C3%A3o.> Systematic attacks have been made on health facilities that provide access to healthcare for trans children and youth.

Medicine Resolution n° 2265 of 2019, whose content deals with specific care for people with “gender incongruence or transgender” as well as Bill 3419/2019, can be mentioned. This last one aims to prohibit hormonal and “sex change” treatments for people under the age of 21, in addition to establishing criminal penalties for parents, guardians, or healthcare professionals who offer them⁴⁸.

50. Regarding education, it is fundamental to point out that the effects of the anti-gender offensive have been creating a setback in the democratization of school spaces from its access to the permanence in Public educative processes. This narrowing of school democratization can be observed in the removal of any discussion about gender from the main guidelines of education; in the strengthening and transformation of civil schools into civil-military schools with rigid codes of conduct and hierarchical gender position and in violent institutional mechanisms against gender diversity and sexuality, as well as in the alteration of textbooks to no longer address issues related to the rights of vulnerable groups, such as the LGBTI population.

51. The setbacks are also verified in the sphere of the criminal justice system. According to Resolution 348/2020 of the National Council of Justice (CNJ), self-declared transgender people must be asked about their preference for custody in a female, male or specific penitentiary or socio-educational unit. Once the unit has been defined, they can give their opinion about detention in general convivality or in specific wards or cells, where applicable⁴⁹. This prevision was recommended by the National Penitentiary Department (DEPEN) in Technical Note 9/2020 and confirmed by a decision of the Federal Supreme Court in March 2021, when judging a request for a precautionary measure in ADPF n° 527, in addition to following the Advisory Opinion OC -24/7/2017 of the Inter-American Court of Human Rights.

52. However, despite the entire legal basis for the right to choose the place of custody for LGBTI people, the practice continues to be impeded by actors of the anti-gender offensive. As they are responsible for implementing most of the penitentiary and socio-educational policies defined at the federal level, some Brazilian states, such as Minas Gerais, started to create

⁴⁸ The anti-transgender offensives are also observed in bills that, in different states of the country, aim to prohibit publicity and advertisements of content and news about sexual diversity, named by the actors that promote them as “gender and sexual preferences”. These propositions are inspired by initiatives in other countries, such as the well-known Russian legislation against homosexual advertisements and the recent bill passed in Hungary on the same topic. In São Paulo and Minas Gerais, the justification for projects of this nature presented in the State Legislative Assemblies is, according to their proponents, to prevent the exercise of the bad influence of discourses and images of sexual and gender diversity on children and youth, as well as their “deleterious effects” for families.

⁴⁹ More information can be found at: “Manual Resolução no. 348/2020”, Conselho Nacional de Justiça, 2021, accessed March 28, 2022,

https://www.cnj.jus.br/wp-content/uploads/2021/06/manual_resolucao348_LGBTI.pdf.

institutional mechanisms to not comply with the regulation set by higher bodies, such as the abovementioned CNJ, STF, and DEPEN⁵⁰.

53. Regarding the access to qualified information on violence against LGBTI people, the country's efforts to develop policies capable of ensuring the collection, systematization, and publication of data were scarce. The last report developed by the Brazilian State was released in 2013, based on information from Dial 100, the National Health Survey, and information collected by non-governmental organizations. The violence remains under-reported but growing at a galloping pace.

54. Since 2008, the non-governmental organization Transgender Europe (TGEU) has monitored, collected, and analyzed reports of murders of transgender and gender-diverse people worldwide. Of the 4.042 murders cataloged by 2021, 1.549 occurred in Brazil⁵². That is, the country accumulates 39% of all global deaths of trans people⁵³. And for the 14th consecutive year, Brazil leads as the country that most executes trans people, followed by Mexico and the United States⁵⁴.

55. The data obtained by the National Association of Transvestites and Transsexuals (ANTRA) in its latest survey are even more alarming. According to the organization, in 2021, initially, 154 murders of trans people were identified in Brazil. With the methodological discard of some cases, due to the insufficiency of reliable information or the impossibility of ascertaining the circumstances of death, only 140 were considered for analysis purposes, of which 23 came from complementary sources, due to the lack of official records. Of these 140 lives taken by gender violence, 135 were of transvestites and transsexual women, and five of trans men and trans male people⁵⁵.

⁵⁰ For more information on the conservative position of the state of Minas Gerais, see "Parecer Técnico 01/2021, do Núcleo de Direitos Humanos e Cidadania LGBT+", UFMG, August 16, 2021, accessed March 28, 2022, <http://www.fafich.ufmg.br/nuh/2021/08/16/veja-o-parecer-sobrenota-tecnica-no-2sejuspdepen2020-que-versa-sobre-custodia-de-pessoas-lgbt-no-sistema-prisional/>.

⁵¹ It can also be highlighted that the programs of the National Public Security Secretariat (SENASP) for training and qualification of public security agents about the LGBTI population were all canceled, as well as the federal protocols of care for this population by the police forces.

⁵² Disponível em: "Trans Murder Monitoring (TMM)", Transrespect versus Transphobia Worldwide, 2021, accessed March 28, 2022, <http://transrespect.org/en/trans-murder-monitoring/tmm-resources>.

⁵³ *Ibid.*

⁵⁴ "TVT TMM Update: Trans Day of Remembrance 2021", Transrespect versus Transphobia Worldwide, November 11, 2021, accessed March 28, 2022, <https://transrespect.org/en/tmm-update-tdor-2021/>.

⁵⁵ "Dossiê assassinatos e violências contra travestis e transexuais brasileiras em 2021", Associação Nacional de Travestis e Transexuais, 2022, accessed March 28, 2022, <https://antrabrazil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>.

Recommendations⁵⁶

In the face of the prior presentation of information, data, and analysis on Brazil's situation concerning gender policies, the organizations that sign this report make the following recommendations to the Brazilian State:

Gender violence

- Investigate the effects of anti-gender policies on the actions of the current Ministry of Women, Family and Human Rights (MMFDH) in cases of gender violence;
- Adopt and strengthen institutional or civil society networks to confront gender violence;
- Implement public policies that ensure not only the protection but also the promotion of the rights of vulnerable groups, such as women and LGBTI people;
- Work to achieve gender and racial equality in the government by ensuring an ever-greater participation of women and the LGBTI+ population in decision-making spaces;
- Ensure compliance with Federal Law 14.192/2021, about political violence against women, establishing concrete action measures in the face of gender violence within political parties and the Legislative Houses.

Sexual and reproductive health and the right to abortion

- Implement women's health care, family, and reproductive planning channels, including prenatal care, information about sexual and reproductive health, and the distribution of contraceptives, to ensure a healthy sex life and dignified motherhood;
- Ensure universal access to legal abortion services, without discrimination;

⁵⁶ Other pertinent recommendations were pointed out in the recommendation matrix (Annex 1)

- Strengthen and structure Legal Abortion Services, mainly to overcome barriers between health professionals, such as conscientious objection, ensuring all people the access to reproductive health services;
- Update ANVISA regulations regarding misoprostol and mifepristone, meeting the scientific recommendations about their safe use outside the hospital environment;
- Eliminate excessive restrictions on the use and commercialization of misoprostol;
- Expand access to legal abortion services via telemedicine, with vast dissemination of the protocol developed;
- Widely publicize legal abortion systems by conducting campaigns to provide information on access.

LGBTI+ rights

- Strengthen national mechanisms for denouncing violations of the human rights of the LGBTI population, creating concrete vigilance and control measures that guarantee their proper functioning;
- Create policies for the inclusion of sexuality and gender diversity in education;
- Strengthen the National Health Plan for the LGBTI Population, already approved by the National Health Council but not implemented yet;
- Ensure that the judiciary recognizes gender identity and all subjectivities related to it and guarantee compliance with decisions of the Courts of Justice and the Supreme Courts that are favorable to LGBTI persons, such as the ones guaranteeing the use of their social name and the right to choose the place of custody in penitentiary and socio-educational facilities, and establish that homotransphobia will be given the same treatment as the crime of racism;
- Structure a policy of employment for trans people, with the guarantee of education and work with all guaranteed rights, whether general or specific.

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Endnotes