
The Center of Justice for Brazilian Women (CJBW)
Report to the United Nations Committee on the
Elimination of All Forms of Discrimination Against
Women (CEDAW) Periodic Review of the
Federative Republic of Brazil

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CENTER OF JUSTICE FOR BRAZILIAN WOMEN
Report to the United Nations Universal Period Review of the Federative Republic of Brazil
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The Center of Justice for Brazilian Women (CJBW) is pleased to submit its report to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) for their Periodic Review of the Federative Republic of Brazil. This report aims to address the consequences of new developments since the Committee's past formal observation following the election of Dilma Rousseff¹, including events such as the recent federal turnover of power to the Jair M. Bolsonaro administration, the COVID-19 pandemic, and what the press claims is largest women's movement in Brazil's history², this report aims to assess the State's compliance to the convention's articles and to provide updates on nation-wide developments of human rights concern. The five topics covered in this report, which are contextualized within the binding articles of the Convention³ include: 1) the rising rates of domestic violence and femicides amid the COVID-19 pandemic, Article 2 ; 2) the continued discourse prompted by President Bolsonaro which inspire outrage and defy the conditions set forth by the Convention, Article 5; 3) the repression of women's access to reproductive healthcare, Article 12; 4) the continued lack of protection and action to empower rural and indigenous women, Article 14; 5) the persisting State attitudes discouraging women from participating in politics, Article 7.

BRAZIL'S GRADUAL DISENGAGEMENT AND NEGLECT OF BINDING INTERNATIONAL HUMAN RIGHTS AGREEMENTS

Since the state's ratification of CEDAW 1984, the state has fluctuated by administration in its overall compliance to the commitments of the convention. In 2009, the seventh Brazilian Report of the Convention on the Elimination of All Forms of Discrimination Against Women claimed to make several large improvements towards establishing a bureaucratic culture that values and actively creates legislation in favor of international women's human rights recommendations and articles. In 2004, under the administration of President Luiz Inácio Lula de Silva (Lula), the state managed to establish and pass the Maria Dala Penha Law, which aims to curb domestic and family violence by criminalizing violence and establishing a special court to the matter⁴. The state also began to establish institutional actors to further uphold the rights of women outlined in the Convention. A few examples are a National Pact for Combating Violence Against Women, a National Meeting of Popular Female Legal Advocates, acceptance of help from the United

¹ See OHCHR, "Concluding observations of the Committee on the Elimination of Discrimination against Women." 23 March 2012, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/BRA/CO/7&Lang=En

² See Carranca, A. (2018, November 2). *The Women-Led Opposition to Brazil's Far-Right Leader*. <https://www.theatlantic.com/international/archive/2018/11/brazil-women-bolsonaro-haddad-election/574792/> See also Langlois, J. (2018, September 29). *Hundreds of thousands of women across Brazil march against far-right presidential candidate*. <https://www.latimes.com/world/la-fg-brazil-women-protests-20180929-story.html>.

³ See articles 2, 5, 12, 6, and 7 in the OHCHR Convention on the Elimination of All Forms of Discrimination against Women. (1979, December 18). *Convention on the Elimination of All Forms of Discrimination against Women*. OHCHR. <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

⁴ See The Maria da Penha Law – Law 11,340 in VII Brazilian Convention on the Elimination of All Forms of Discrimination against Women, (2009), available at https://www.gov.br/mdh/pt-br/navegue-por-temas/politicas-para-mulheres/arquivo/assuntos/acoes-internacionais/Articulacao/articulacao-internacional/onu-1/CEDAW%20VII%20Relatorio%20_ingles_.pdf

Nations Development Fund for Women (UNIFEM) the launch of the “speak without fear – say no to domestic violence” campaign, the creation of the National Forum of Special Courts for Domestic and Family Violence against Women (FONAVID), and the reoccurring National Conference for Women Policy.⁵ However, these promises were made almost ten years ago, and with the recent election of President Jair Bolsonaro, there is a declining support for such action, as well as a rising defiance to the binding conditions of CEDAW. This defiance has caused detrimental consequences to the health and well-being of women, as defined in this report. The Center of Justice for Brazilian Women hopes to compare the actions that the State committed to following the past formal observation, with the current state of action under a new administration.

1. THE RISING RATES OF DOMESTIC VIOLENCE AND FEMICIDES AMID THE COVID-19 PANDEMIC IN VIOLATION OF ARTICLE 2 OF THE CEDAW

Article 2, principle (c) states that the ratifying state must, “establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.”⁶ Whereas Article 1 of the same convention states that discrimination “shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁷

In the last observation by the Committee, the committee was concerned about implementation of the Maria da Penha Law, which was created to combat domestic violence and femicides.⁸ This law and its implementation has been largely discounted and sanctioned by the current administration and President Bolsonaro⁹. According to research by the Human Rights Watch, since 2018, of all Brazilian municipalities, only 8% have the infrastructure in place, such as police stations, which specialize in domestic violence and violence against women, and only 2% of municipalities offered women’s shelters. This is among the “one million cases of gender-based violence and 5,100 femicides” which are currently pending in Brazilian courts.¹⁰ The last State report to CEDAW ensured that the Secretariat of Policies for Women was working to establish a call center which was “intended to receive denunciations and reports of violence and complaints on network services, besides guiding the women about their rights and sending them to the Assistance Network for Women in a Situation of Violence when necessary.”¹¹ Since this promise, an unequal 90 percent of all Secretariat funds were allocated to this phone line, yet services have been described as inadequate. Additionally, since the COVID-19 pandemic, the

⁵ See above

⁶ See article 2 of OHCHR CEDAW

⁷ See article 1 of OHCHR CEDAW.

⁸ See Violence Against Women in OHCHR, “Concluding observations of the Committee on the Elimination of Discrimination against Women.” 23 March 2012, available at https://tbinternet.ohchr.org/_layouts/15/treatybody

⁹ Redação, D. (2019, October 9). *Bolsonaro sanciona projetos que ampliam Lei Maria da Penha*. VEJA. <https://veja.abril.com.br/brasil/bolsonaro-sanciona-projetos-que-ampliam-lei-maria-da-penha/>.

¹⁰ See Violence Against Women and Girls: *Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) on Brazil*. Human Rights Watch. (2020, October 28). <https://www.hrw.org/news/2020/10/21/submission-committee-elimination-all-forms-discrimination-against-women-cedaw-0>.

¹¹ See Women’s Call Center in, State of Brazil. (2010). *VII Brazilian Report of the Convention on the Elimination of All Forms of Discrimination against Women*. www.gov.br. <https://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-BRA-CO-7.pdf>.

number of calls have increased while the number of police reports have dropped.¹² Due to this lack of legal protections which have not been well supported under the current administration to prevent women from being discriminated against in the home, such as the Maria da Penha Law, the quarantine as a result of COVID-19 has prompted a number of states throughout Brazil to see an increased rate of femicides, which are up 56% since the start of quarantine¹³. These results are the consequences of an overall failure to comply to the States' past commitments to fulfilling the full promises of FONAVID, UNIFEM, and the National Pact for Combating Violence Against Women. As by Article 2 of CEDAW, the State must protect women from all forms of discrimination. Since this issue disproportionately affects women, the state is not in compliance.

2. THE CONTINUED DISCOURSE PROMPTED BY PRESIDENT BOLSONARO WHICH INSPIRE OUTRAGE AND DEFEY THE CONDITIONS SET FORTH BY THE CONVENTION, IN VIOLATION OF ARTICLE 5 OF THE CEDAW

Whereas Article 5 states that, "State parties shall take all appropriate measures: (a) To modify the social and cultural conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of the sexes or on stereotyped roles for men and women..."¹⁴

The State and its behavior towards women do not align with the conditions and commitments of this article. The President has been quoted contributing to a dialogue against this agenda, saying about a woman in 2014, "I would not rape her because she does not deserve it", and that she was "not worth raping; she is very ugly."¹⁵ This quote and the election that followed sparked outrage in women across Brazil, many of them marching in the streets in protest of his leadership¹⁶. In response a growing list of quotes of this caliber, the protestors chant "this cannot continue"¹⁷. By continuing to champion a vocabulary and a discourse that promotes sexist ideas, President Bolsonaro is not working in conduct to eliminate prejudice and stereotypes against women.

In the past observation of the Convention, the Committee expresses concern for the feminization of the HIV/AIDS epidemic.¹⁸ On this issue, the last state report to the Committee also mentioned the need to "combat the violence against women" and ensure equal protection from the

¹² See Violence Against Women and Girls: *Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) on Brazil*. Human Rights Watch. (2020, October 28). <https://www.hrw.org/news/2020/10/21/submission-committee-elimination-all-forms-discrimination-against-women-cedaw-0>.

¹³ See *Feminicídios, Violência Doméstica Durante Pandemia de Covid-19 Edição 03*. Fórum Brasileiro de Segurança Pública. (2020, August 3). https://forumseguranca.org.br/publicacoes_posts/violencia-domestica-durante-pandemia-de-covid-19-edicao-03/.

¹⁴ See Article 5 of OHCHR CEDAW

¹⁵ mp-MS, teleS. U. R. /. (2019, May 27). *Brazil's Bolsonaro Fined for Misogynistic Comment, to Publicly Retract*. News | teleSUR English. <https://www.telesurenglish.net/news/Brazils-Bolsonaro-Fined-for-Misogynistic-Comment-to-Publicly-Retract-20190527-0013.html>.

¹⁶ Andres Schipani, & Joe Leahy. (2018). Brazilian women lead mass protests against Bolsonaro. FT.com, FT.com, 2018-09-30.

¹⁷ Llc, T. (2020). Brazil's women mobilize against Bolsonaro. CE Noticias Financieras, pp. CE Noticias Financieras, 2020-03-08.

¹⁸ See Health in OHCHR, "Concluding observations of the Committee on the Elimination of Discrimination against Women." 23 March 2012, available at https://tbinternet.ohchr.org/_layouts/15/treatybody

infection.¹⁹ Following this promise, the President has verbally rejected any notion of repair of this stigma. In reports by the media, Bolsonaro has been quoted saying that victims of HIV are “an expense for everyone in Brazil” and continues to call them “AIDS patients”, a term that has been removed from the politically correct vocabulary of many.²⁰ The Executive Branch of Brazil, by the actions of the President, is in violation of Article 5 of CEDAW.

3. THE STATE REPRESSION OF WOMEN’S ACCESS TO REPRODUCTIVE HEALTHCARE, IN VIOLATION OF ARTICLE 12 OF THE CEDAW

Whereas Article 12 states that, “State parties shall take appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.”²¹

Currently, under the penal code 124-127²² abortion is still only legal in Brazil if the woman is at risk of dying, or if the pregnancy was caused by rape. Doctors are weary to perform abortions on a patient, due to either legal or moral concerns.²³ The Human Rights Watch sources the work of a nongovernmental organization named Article 19, which found that the majority of hospitals in Brazil do not perform abortions.²⁴ Due to these laws and norms, women are dying or are hospitalized from trying to perform unsafe and illegal abortions. Data pointing to this trend is credited to a Cadernos de Saude Publica (CSP) report in public health, where researchers found that from a data set ranging from 2008 to 2015, nearly 200,000 hospitalizations a year were caused by an abortion, and 770 of these hospitalizations ended in death of the mother. Over half of these deaths were non-specified as abortion, meaning that the data provided by official sources was not inclusive of illegal abortion as a cause of death.²⁵ This penal code, by means of its fatal consequences, is in direct violation of Article 12 of the CEDAW.

Following the COVID-19 Pandemic, the Human Rights Watch reports that many existing hospitals that offered legal abortions closed their availability, claiming that this procedure was “not urgent” amid the pandemic. Their report also states that under ordinance 2.282/2020, the state requires any doctor or nurse to report any emergency abortion following rape, without the

¹⁹ See Protection of sexual and reproductive rights and implementation of the Integrated Plan to Combat the Feminization of Aids in, State of Brazil. (2010). *VII Brazilian Report of the Convention on the Elimination of All Forms of Discrimination against Women*. www.gov.br.

<https://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-BRA-CO-7.pdf>.

²⁰ Dideriksen, C. (2020, February 15). *Brazil: Bolsonaro and the terribly (anti) Christian discourse on HIV / AIDS*. Equal Eyes. <https://equal-eyes.org/database/2020/2/15/brazil-bolsonaro-and-the-terribly-anti-christian-discourse-on-hiv-aids>. See also ao-MS, teleS. U. R. /. (2020, February 5). *People With HIV Are "an Expense" for Brazil: Bolsonaro*. News | teleSUR English. <https://www.telesurenglish.net/news/People-With-HIV-Are-an-Expense-for-Brazil-Bolsonaro--20200205-0027.html>.

²¹ See Article 15 of OHCHR CEDAW

²² *Brazil's Abortion Provisions*. 1 Oct. 2013, reproductiverights.org/world-abortion-laws/brazils-abortion-provisions.

²³ See Introduction, Madeiro, Alberto Pereira, & Diniz, Debora. (2016). Legal abortion services in Brazil--a national study. *Ciência & Saude Coletiva*, 21(2), 563-572. See also the Penal Code: Brasil. Presidência da República. Casa Civil. Decreto- Lei n. 2.848, de 7 de dezembro de 1940. Código Penal. *Diário Oficial da União* 1940; 31 dez.

²⁴ See Women’s and Girls Rights, *Abortion in World Report 2020: Rights Trends in Brazil*. Human Rights Watch. (2020, January 17). <https://www.hrw.org/world-report/2020/country-chapters/brazil>.

²⁵ Cardoso, Bruno Baptista, Vieira, Fernanda Morena Dos Santos Barbeiro, & Saraceni, Valeria. (2020). Abortion in Brazil: What do the official data say? *Cadernos De Saúde Pública*, 36Suppl 1(Suppl 1), E00188718.

consent of the survivor.²⁶ These policies work to make it more difficult for a woman to obtain an abortion, even if it is fully legal under the statutes in place.

President Bolsonaro has also comfortably expressed his view against abortion by changing the name of the Human Rights Ministry to the Human Rights, Family and Women Ministry, headed by Damara Alves—an outspoken anti-abortionist.²⁷ The state is not taking the appropriate measures to ensure the equality of women's health and wellness. It is clear that since the last report by the state, the plans of the National Sexual Reproductive Health Policy and the National Family Planning Policy are not the priority of the current administration.

4. THE CONTINUED LACK OF PROTECTION AND ACTION TO EMPOWER RURAL AND INDIGENOUS WOMEN, IN VIOLATION OF ARTICLE 14 OF THE CEDAW

Whereas Article 14 states that, “States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families...and shall take all appropriate measures to eliminate discrimination against women in rural areas...”²⁸

Indigenous and rural women in particular face unique challenges and discriminatory consequences by the current state administration. Since 2019, loggers have been reported to invade and exploit indigenous land in northern Brazil. Illegal seizures of the land are common, and formal complaints by federal prosecutors were met with no response. This illegal activity has led to an increase in violence targeted towards rural populations, including murders of vocal activists.²⁹ Land reform by the State has deviated away from its past promises of the National Land Reform Plan and the Women's National Programme for the Strengthening of Family Agriculture, and has instead settled for a more private approach to exploiting the land of indigenous and rural peoples, which more directly affects the poverty of women.^{30 31}

5. THE PERSISTING STATES ATTITUDES DISCOURAGING WOMEN FROM PARTICIPATING IN POLITICS, IN VIOLATION OF ARTICLE 7 OF THE CEDAW

Whereas Article 7 states that, “States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all

²⁶ See Sexual and Reproductive Rights: *Submission to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) on Brazil*. Human Rights Watch. (2020, October 28). <https://www.hrw.org/news/2020/10/21/submission-committee-elimination-all-forms-discrimination-against-women-cedaw-0>.

²⁷ SH, teleSUR / rp -. “Bolsonaro Abolishes Human Rights Ministry For 'Family Values'.” *News | TeleSUR English*, TeleSUR, 7 Dec. 2018, www.telesurenglish.net/news/Bolsonaro-Abolishes-Human-Rights-Ministry-For-Family-Values-20181207-0021.html.

²⁸ See Article 14 of OHCHR CEDAW

²⁹ “Everything You Need to Know about Human Rights in Brazil.” *Everything You Need to Know about Human Rights in Brazil* | Amnesty International | Amnesty International, www.amnesty.org/en/countries/americas/brazil/report-brazil/.

³⁰ See CEDAW, ARTICLE 14 in, State of Brazil. (2010). *VII Brazilian Report of the Convention on the Elimination of All Forms of Discrimination against Women*. www.gov.br.

³¹ See Rural Women in OHCHR, “Concluding observations of the Committee on the Elimination of Discrimination against Women.” 23 March 2012, available at https://tbinternet.ohchr.org/_layouts/15/treatybody

publicly elected bodies; (b) to participate in the formation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) to participate in non-governmental organizations and associations concerned with the public and political life of the country."³²

In the past, the State of Brazil has done well to involve the identities of women in delegating roles of society. In 2010, CEDAW commended the State for electing the first woman president of Brazil, Dilma Rousseff, as well as appointing 10 female ministers.³³ However, women involvement in politics has dropped drastically since the time of these achievements. After the election of Jair Bolsonaro, his transition team consisted of 27 people and included no women, which has faced significant media fallout.³⁴ Following his election in 2018, the Brazil Institute under the Wilson Center released a report looking at gender and political participation in Brazil. They found that while women make up over half of the Brazilian population, they only held 12% of congress and 7% of cabinet. In comparison, the State of Brazil ranks 152 in representation within parliament, coming behind both Afghanistan and Iraq.³⁵

There is a lack of demographic voter information following the election in 2018, however it is clear that under Bolsonaro, there was a strong drop in female participation within executive appointments. Currently there are only two women serving in the Cabinet, Damara Alves of the Minister of Human Rights, Family, and Women, and Tereza Cristina, Minister of Agriculture.³⁶ It is clear that the State is not doing all that it can to encourage women to participate in democracy, as well as be appointed to important positions where it is essential that they be represented.

RECOMMENDATIONS TO THE COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) TO THE STATE OF BRAZIL.

The Center of Justice for Brazilian Women urges the Committee to,

1. Ask the State of Brazil to ensure that Brazilian women are receiving an equal access as men to valuable healthcare amid the COVID-19 pandemic.
2. Ask the State of Brazil to focus their attention on equally distributing the funds of the Secretariat of Policies for Women to a broader range of resources for women and establish a system of budget accountability.
3. Urge the State of Brazil to prioritize the full implementation of the Maria da Penha Law, and communicate on a local level to ensure accountability and faster response of law enforcement.

³² See Article 7 of the OHCHR CEDAW

³³ See Positive Aspects in the OHCHR, "Concluding observations of the Committee on the Elimination of Discrimination against Women." 23 March 2012, available at https://tbinternet.ohchr.org/_layouts/15/treatybody

³⁴ ne-VC, teleS. U. R. / . (2018, November 7). *Brazil: PT Calls Out Bolsonaro For All-Men Cabinet*. <https://www.telesurenglish.net/news/Brazil-PT-Calls-Out-Bolsonaro-For-All-Men-Cabinet-20181107-0025.html>.

³⁵ Institute, B. (2018, June 20). *Political Participation in Brazil: A Look at Gender*. Wilson Center. <https://www.wilsoncenter.org/article/political-participation-brazil-look-gender>.

³⁶ See *Cabinet Members*. <http://www.brazil.gov.br/government/ministers>.

4. Urge those in power to reconsider and unlearn their harmful vocabulary surrounding the decency of women and establish an educational system which teaches of the detrimental consequences of such discourse.
5. Advocate for the State of Brazil to retract and reconsider ordinance 2.282/2020 and penal code 124-127 which severely impacts the health and wellbeing of people in need of an abortion.
6. Ask the State of Brazil to establish a cause of death from “illegal abortion.”
7. Ask the State of Brazil to discontinue its support of logging and land seizures in rural areas.
8. Ask the State of Brazil to establish protection laws and implement reparations for rural and indigenous families who have been negatively affected by the violence and poverty that stems from logging and land seizures.
9. Ask the State of Brazil to further reduce vocabulary and discourse that upholds the stereotyping of women and empower women by advocating for their participation in democracy.
10. Ask the State of Brazil to implement an intentional mandate which demands an increased inclusion of women in executive appointed positions going forward.