

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 39<sup>TH</sup> SESSION (NEW YORK, 23 JULY– 10 AUG 2007) BRAZIL (6<sup>TH</sup> PERIODIC REPORT)

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### Information Submitted to the Committee

On 25 July 2007, Brazil submitted its 6<sup>th</sup> periodic report<sup>1</sup> under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses<sup>2</sup> to the list of issues and questions<sup>3</sup> raised by the Committee on the Elimination of Discrimination against Women (the Committee). Ms. Nilcea Freire, Minister in the Special Secretariat of Policies for Women of the Federal Government, led the Brazilian delegation.

Brazil is the largest and most populous country in Latin America. Although the Brazilian economy is ninth largest in the world, acute inequality and poverty persist. While wealthier urban populations enjoy a quality of life characteristic of advanced economies, urban slums and rural peripheries reveal struggles with absent services and inconsistent rights protection. The institutionalised protection of human rights broadly, and gender equality specifically, tends to parallel economic divisions. Gender discrimination may be intertwined with multiple forms of exclusion depending on economic status, rural origin, race, ethnicity, sexuality, age, and/or ability.

<sup>1</sup> <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

<sup>2</sup> <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

<sup>3</sup> <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

Since re-democratization in 1985, Brazil has shown movement towards gender equality. The Government ratified the Convention in 1984 and the Optional Protocol in 2002 with one reservation to article 29, paragraph 1.<sup>4</sup> In 2003, the first Brazilian delegation presented the combined 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> periodic reports covering 17 years, from 1985 to 2002.<sup>5</sup>

The 6<sup>th</sup> periodic report details programs and policies undertaken from 2001 to 2005 corresponding to the articles of the Convention. The report emphasizes the federal government's commitment to fostering racial and gender equality. Highlights include the First National Conference on Policies for Women, resulting in the National Plan on Policies for Women; the Tripartite Commission for Equality of Opportunity for Gender and Race at Work; the Bill on Domestic Violence; the National Pact to Reduce Maternal and Neonatal Death; the Brazil without Homophobia Program; the establishment of the Department for Continuing Education, Literacy, and Diversity; and the launching of the National Documentation Program for Rural Women Workers.

Two shadow reports were submitted to the Committee.<sup>6</sup> Authored by 23 national networks and coalitions of women, the first shadow report details areas where compliance with the provisions of the Convention remains unmet. This report stresses numerous concerns and recommendations particularly in the following areas: institutional guarantees to ensure equality of rights, violence and discrimination, affirmative action, stereotypes and cultural patterns, trafficking and sexual exploitation, public, political, and international participation and representation, education, employment, and health. The second shadow report, submitted by Conectas Human Rights,<sup>7</sup> focuses specifically on two concerns: black women's right to health and unsafe abortion as a serious public health issue.

Brazil is party to a number of other international instruments including the *Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment*, the *International Covenant on Civil and Political Rights*, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *International Covenant on Economic, Social, and Cultural Rights*, and the *Convention on the Rights of the Child*.<sup>8</sup>

## Themes and Issues<sup>9</sup>

### **Institutional and Legal Framework for Equality**

The Committee commended the Brazilian Government's dedication and progress of recent years in addressing gender exclusion and discrimination. While a multitude of programs and policies emerged, Committee members expressed concern regarding uniform implementation and adequate monitoring mechanisms to ensure compliance throughout the entire country. Committee expert Mr. Flinterman inquired how the Federal Government ensures state and municipal compliance to the obligations of the Convention. Committee experts also requested insight into the application of the provisions of the Convention by the judiciary in domestic court cases.

Ms. Freire, head of the delegation, described the complexity of the Brazilian political system. While the Federal Government adopted the National Plan for Women, containing 199 actions towards gender equality in

<sup>4</sup> <http://www.un.org/womenwatch/daw/cedaw/states.htm>.

<sup>5</sup> See Countries Reporting, Brazil, CEDAW/C/BRA/1-5 at <http://www.un.org/womenwatch/daw/cedaw/29sess.htm>.

<sup>6</sup> For both shadow reports, see 39<sup>th</sup> CEDAW Session, Brazil, at [http://www.iwraw-ap.org/resources/shadow\\_reports.htm](http://www.iwraw-ap.org/resources/shadow_reports.htm).

<sup>7</sup> <http://www.conectas.org/>.

<sup>8</sup> <http://www.ohchr.org/english/law/index.htm>.

<sup>9</sup> For a detailed report of dialogue with the Committee, please see the press release at <http://www.un.org/News/Press/docs/2007/wom1640.doc.htm>.

compliance with the Convention, each state must sign a pact signifying its commitment to implement the Plan. The Federal Government cannot force states to comply, but provides incentives to encourage local implementation of federal legislation. To date, 24 of 27 states have signed this pact. Ms. Freire drew attention to a comprehensive monitoring and evaluating mechanism of the Plan, conducted every two months.

The Federal Government does not have authority over the judiciary, which is closed and isolated. Any conflict involving the Convention would be resolved in the courts. To the delegation's knowledge, however, no domestic cases have invoked the provisions of the Convention. International treaties do not have precedence over the Brazilian Constitution, but do become incorporated into Brazilian domestic law.

### **Violence Against Women**

Committee expert Ms. Coker-Appiah applauded the Government's recent legislation on domestic violence, the Maria da Penha Law. Ms. Coker-Appiah stressed, however, that such legislation is only effective when victims understand their new legal rights and can freely access resources, such as free legal aid. Committee Chairperson Ms. Šimonović echoed these concerns and underscored the importance of awareness-raising campaigns and data collection.

The Maria da Penha law, drafted by various governmental ministries and a consortium of eight non-governmental organizations (NGOs), garnered widespread support by the Government and civil society. Ms. Freire noted the mandatory implementation of the law nationwide. Public defence units provide information, free legal aid, and advocacy services in every state. Governmental and non-governmental awareness campaigns enhance public knowledge of domestic violence and the rights guaranteed under the Maria da Penha law. As for data collection, the Brazilian Institute of Geography and Statistics will conduct a door-to-door survey to analyze the prevalence and characteristics of domestic violence in Brazil.

### **Marginalized Populations**

Multiple Committee experts raised concerns regarding the socio-economic disadvantages shaping vulnerability to gender based violence, sexual exploitation, and human trafficking. Ms. Freire emphasized President Luiz Inacio Lula da Silva's role as a world leader in the reduction of poverty and pointed to the empowerment of women as a critical tool for such reduction. Strategies for alleviating poverty, such as the national food coupon programme, specifically target vulnerable populations.

To address human trafficking, the President created a national task force to study trends and methods of prevention. Ms. Freire described Brazil's size, geography, and lengthy borders as formidable obstacles to combating domestic and international human trafficking, but indicated that serious discussions of the problem were underway.

Committee experts also stressed the full extension and protection of rights for women living in rural areas. Committee expert Ms. Anamah Tan requested detailed information regarding documentation of rural women to ensure pension programs and benefits. With limited access to the registry, rural populations are frequently deprived of pension benefits. The Ministry of Social Security, among other governmental and nongovernmental bodies, is involved in a programme to register female rural workers and disseminate information regarding their economic and social rights.

The Committee did not explicitly address the situation of female prisoners, although the non-governmental shadow report stressed the precarious human rights conditions of overcrowded prisons in Brazil. The shadow report recommends policies to address the specific needs of female prisoners, especially in the area of health. The state report describes periodic meetings of the Special Secretariat of Policies for Women to address the conditions of female prisoners. Reforms to improve healthcare, general living conditions and the protection of maternal rights are pending.

## **Political Participation and Representation**

Committee members noted the dismally low percentage of women participating in political life, comprising only 14.8 per cent of the National Congress, 7.4 per cent of Governors, 12.6 per cent of Mayors, and 18.6 per cent of career Diplomats. Committee expert Ms. Zou Xiaoqiao recommended diligent efforts to ensure representation of women and minorities in politics and asked whether the Government will implement mandatory quotas. Committee expert Ms. Magalys Arocha Dominguez suggested family support programs that provide women with more time to pursue politics and require men to share familial responsibilities.

Ms. Freire assured the Committee of her shared commitment to improving women's representation in political life. The current Government, according to Ms. Freire, is attempting to make up for years of disregard for women's issues. The delegation stressed a clear policy of electoral reform created by the Secretariat of Policies for Women and the National Council of Women that includes mandatory gender quotas. Such reforms, however, receive limited support and the status quo of grossly disproportionate representation persists.

## **Education**

Women are the majority enrolled in higher education and 63 per cent of its graduates. Mr. Flinterman requested information regarding quotas in the education system, particularly to address the low representation of indigenous, Afro-descendent, and poor women. Ms. Freire noted that participation in higher education is gender neutral, but a focus on racial and ethnic minorities as well as low-income students is necessary. A national quota system based on race and income is pending, however many universities have adopted their own quota systems to increase participation by under-represented groups.

## **Employment**

Although women constitute the majority of higher education graduates, this does not translate to employment advantages. Women are paid significantly less than their male peers and men dominate prestigious positions. According to a shadow report, studies shows women earning approximately 38 per cent less than men when controlled for education, age, and hours worked. The Committee urged efforts to reduce discrimination in the work place, including establishing sanctions for sexual harassment.

The number of women in the formal versus informal sectors of the economy was of notable concern to the Committee. The majority of domestic workers are women (90 per cent), Afro-descendent, and/or indigenous. Committee expert Ms. Ruth Halperin-Kaddari noted recent legislation to encourage registration of domestic workers, but drew attention to its voluntary compliance. Committee member Ms. Tavares da Silva requested information regarding the extension of labour, education, and health rights to domestic workers. Ms. Halperin-Kaddari also voiced concern over the significant percentage of minors involved in domestic work.

Ms. Freire acknowledged the frustration of a persistent wage gap between men and women. Educational gains and evolving social attitudes increasingly challenge this inequity. She confirmed that the measures to formalise the labour arrangements of domestic workers are voluntary, yet described governmental incentives to encourage employers to provide paid vacation and maternity leave.

## **Health**

The Brazilian delegation received numerous questions and comments regarding women's health, especially for Afro-descendent, indigenous, and rural women. Maternal mortality is a serious public health concern, particularly in rural areas where ratios may reach 92 deaths per 100,000 live births. Abortion is a contentious issue and permitted only in cases of rape or risk to the life of the mother. A shadow report indicates as many

as 1.4 million spontaneous and unsafe abortions occur annually, a rate of 3.7 abortions for every 100 women between 15 and 49 years of age.

Ms. Arocha Dominguez and Ms. Šimonović sought clarification regarding the obstacles to the legalisation of abortion. Other committee members critiqued the persistence of punitive actions in the case of abortion. The delegation recognized the public health dilemma and described the controversial nature of abortion in Brazilian society. A bill recently debated in the Parliament involved the removal of punitive measures, but received limited support. The delegation described the clear separation between Church and State, but indicated an unfavourable political climate in which to legalize abortion.

Committee members scrutinised high rates of maternal mortality, especially in rural areas, as well as limited family planning resources and education to prevent early pregnancy and the transmission of sexually transmitted diseases (STDs). The delegation reiterated important national health policies encompassing health services regardless of socio-economic status in all regions. Efforts to reduce maternal mortality recently stabilized rates at 74.5 deaths per 100,000 live births. Investment in contraceptives and family planning services increased substantially since 2002. The delegation signified the Government's commitment to improving educational programmes in order to reduce adolescent pregnancy and transmission of STDs.

### Conclusion and Next Steps

The Committee concluded the constructive dialogue by requesting elaboration on efforts to reduce gender stereotypes in the media and culture as well as the feminization of HIV/AIDS in Brazil's next report. Overall, the Committee appeared pleased by progress made during the five-year period since Brazil's previous report, and especially by the Maria da Penha law as a comprehensive legal mechanism to fight domestic violence. While the Brazilian delegation presented numerous policies, programmes, plans, and initiatives surrounding gender equality, a reoccurring theme was the need for comprehensive implementation, examination, and enforcement across all socio-economic and geographic divides.

*Last revised and updated: 31 August 2007.*

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The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the seven treaty bodies and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

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