

## Alternative Report

---

### *Seventh Periodic Report of Brazil (CEDAW/C/BRA/7), Committee on the Elimination of All Forms of Discrimination Against Women, CEDAW, 51<sup>st</sup> session*

Prepared by the organizations and networks:

- CLADEM/Brasil, Comitê Latino-americano e do Caribe para a Defesa dos Direitos da Mulher (Latin American and Caribbean Committee for the Defense of Women's Rights)
- IPAS
- Rede Nacional Feminista de Saúde, Direitos Sexuais e Direitos Reprodutivos (Brazilian Feminist Network of Health, Sexual Rights and Reproductive Rights)
- GESTOS Soropositividade, Comunicação e Gênero (Soropositivity, Communication and Gender)
- AÇÃO EDUCATIVA (Educational Action)
- ECOS Comunicação e Sexualidade (Communication and Sexuality)
- THEMIS Assessoria Jurídica e Estudos de Gênero (Legal Advisory and Gender Studies)
- Relatorias Nacionais para o Direito Humano à Educação e pelo Direito à Saúde da Plataforma Descha Brazil (National Rapporteurships for the Right to Education and the Right to Sexual and Reproductive Health of the Brazilian Dhesca Platform)
- NIEM – Núcleo Interdisciplinar de Estudos sobre Mulher e Gênero e da Universidade Federal do Rio Grande do Sul (Interdisciplinary Nucleus of Studies on Women and Gender at the Federal University of Rio Grande do Sul)
- REGES – Rede Educação Sexualidade e Gênero e Jovens Feministas (Education Network of Sexuality and Gender and Young Feminist)
- Comissão de Cidadania e Reprodução (Commission for Citizenship and Reproduction)
- Coletivo Feminino Plural (Female Plural Collective)

January, 2012

---

**CONTENTS**

<b>Presentation</b> .....	2
<b>Introduction and Contextualization</b> .....	2
<b>Article 4 (Affirmative action) and 7 (Right to Public and Political Life)</b> .....	3
. In terms of recommendations ( <i>Paragraph 26</i> ).....	4
. The Recommendation .....	4
<b>Article 5 – Gender Stereotypes, Violence against Women, Maria da Penha Law and Trafficking in Women</b> .....	4
. Maria da Penha Law.....	5
. Trafficking in Women .....	6
<b>Article 10 – Education</b> .....	7
. Educational Profile and Labor Market .....	8
. Education Policies .....	9
. Situation of Brazilian Education: mapping of some inequalities .....	10
. Illiteracy .....	12
<b>Article 12 – Sexual and reproductive health, abortion</b> .....	13
. Unsafe abortion: the fourth cause of maternal mortality in Brazil.....	14
. Health of Black Women, sexual and reproductive rights, violence .....	18
. Restraint to access to information .....	18
. Feminization of the HIV epidemic and relationship with violence .....	19

## Presentation

This alternative report to the 7<sup>th</sup> National Report of Brazil to the CEDAW, concerning the period 2006 to 2009 is a contribution of the feminist and women's movement to support the CEDAW Committee in its analysis and comments on the official report sent by the Brazilian State in 2010, and ensure appropriate and effective accomplishment of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Prepared by the organizations and networks CLADEM/Brazil (Latin American and Caribbean Committee for the Defense of Women's Rights), IPAS, Brazilian Feminist Network of Health, Sexual Rights and Reproductive Rights, GESTOS Soropositivity Communication and Gender, AÇÃO EDUCATIVA, ECOS Communication and Sexuality, THEMIS Legal Advisory and Gender Studies, National Rapporteurships for the Right to Education and the Right to Sexual and Reproductive Health of the Brazilian Dhesca Platform, NIEM – Interdisciplinary Nucleus of Studies on Women and Gender at the Federal University of Rio Grande do Sul, REGES - Education Network of Sexuality and Gender and Young Feminist, Commission for Citizenship and Reproduction, Female Plural Collective, among others,<sup>i</sup> the report expresses the resulting buildup of theoretical reflections on gender issues and political practice of the feminist movement and women.

The report was developed based on the available information in databases of Brazilian governmental agencies, publications elaborated from the production of civil society organizations and universities, besides that conveyed in the media, supporting and confirming through facts the assertions contained in reports. Although observe the sequence in presenting the articles of the Convention, focuses on the following articles: 1 and 2 (discrimination), 5 (violence, trafficking and sexual exploitation), 7, 10 (education) and 12 (sexual and reproductive health, abortion and AIDS.)

## Introduction and Contextualization

The document "*Alternative Report to the Seventh National Report of Brazil*" combines contributions from a set of networks, articulations, and women's organizations and gender studies centers of universities and reflects on the one hand, advances in recent decades, when the country became signatory of all the most important commitments regarding guarantees of human rights, particularly those directed to ensure better and higher level of citizenship to women. In this perspective, reflects the summary of public policies elaborated on the basis of concepts of equality and equity, universality and indivisibility of human rights and dignity of women. Over the last two decades, particularly in the past decade, a period of analysis by the Cedaw Committee, Brazil has deepened the process of democratization of its political and social structures, according to the Federal Constitution dated 1988. In relation to women, there was also in the last decade a fruitful set of policies developed by Federal Government with the participation of civil society, for which the National Conferences of Policies for Women (2004, 2007 and 2011) played an important role by providing contributions to the three National Plans of Policies for Women. It was verified in this period, moreover, the emergence of a new legislation on violence against women inspired by the Convention of Belém do Pará, the Maria da Penha Law, a conceptual leap to prevent, punish and eradicate violence against women in Brazil.

The feminist and women's movement has been integrating the processes of accountability of the Brazilian State in international fora particularly in relation to the Convention on the Elimination of All Forms of Discrimination Against Women, in addition to having served prominently in the international campaign that obtained the Optional Protocol to CEDAW, leading also Brazil to ratify it. Presented Alternative Report in 2003 and 2007, and made the follow up for the accomplishment of the recommendations.

For the third time the Women's Movement presents its Alternative Report that expresses the critical and propositive vision of Brazilian society sectors, recognizing the limitations of its approach, which warns for the need of more participatory processes and wider dissemination of CEDAW in Brazil.

#### **Article 4 (Affirmative action) and 7 (Right to Public and Political Life)<sup>1</sup>**

Brazilian women are less represented in numerous sectors of society. Regardless, there is a consensus that their presence is imperative in the decision-making spheres. For this reason, resort to quotas is used to promote the participation of women in representative instances. But quotas on its own have not been guarantee of equitable representation between women and men. The resulting numbers of elective processes, according to records of the Superior Electoral Court of Brazil, do not presume automatically equality. Brazil has, repeatedly, one of the worst rates in female political empowerment.

Statistics of the Inter-Parliamentary Union (IPU, 2011) show Brazil in 108<sup>th</sup> place in the ranking of women's political participation in 188 countries and 265 parliamentary houses, considered the elections in October 2010. At this time, female parliamentary representation is 8.6%, with 44 women elected of the total 513 federal deputies, a figure much lower than the world average (19%) and also the Latin American (20%). In the Southern Cone is captained by Argentina - in 12<sup>th</sup> place in the world (38.5%) - as one of the countries denoting regional trend to growth of female parliamentary representation, while the numbers remain stagnant in Brazil<sup>2</sup>.

Comparison of the election results of 2006 and 2010 demonstrates this stagnation in Brazil. The increase of candidates in the last election in which 23 women deputies were re-elected (50%) does not alter the total sum of the legislature 2007/2011, with 46 female federal deputies (8.9%). In the Senate, this performance tends to be relatively better. In the same comparison, the count of women senators increases of 10 (12.35%) to 13 (16%) among 81 representatives, while in neighboring Argentina, women hold 26 (36%) of 72 Senate seats, a proportion quite superior to the world average: approximately 18% for the upper chambers<sup>3</sup>.

The deficits of political empowerment of Brazilian women have spillover effects in other social indicators. While improvements in education, income and life expectancy are leading Brazil to better global positions in its Human Development Index (HDI), this does not apply regarding the set of aspects of female condition. Situation confirmed by analysis that measure gender disparities related to reproductive health (maternal mortality, early pregnancy), economic activity (training and participation in the labor market) and participation in positions of power and decision. Such assessments reinforce the idea that the disadvantages of women identified in these areas represent factors of potential losses of human development.

On the two occasions that Brazil submitted its accountability reports on the implementation of CEDAW (2003 and 2007), the political exclusion of women appears in the document "Concluding Comments", listed among the "Principal areas of concern and recommendations" of the Committee.

In 2007, the concerns assigned by the Committee (Paragraph 25) serve to reintroduce aspects of the aforementioned relation "women and politics", among them, the weakness of the legal provisions such as the quota system. Associated with this comes the problem of deficits in political participation and representation of women. In these terms, the Committee alludes to non-compliance with Article 7 of the Convention, which urges its signatories to face the political discrimination of gender, ensuring to

---

<sup>1</sup> The information of this section is consolidated on the basis of: PRÁ, Jussara Reis. Reflexões sobre gênero, mulheres e política. [Reflections on gender, women and politics]. In: PAIVA, Denise (Org.). *Mulheres, política e poder*. [Women, politics and power]. Goiânia: Editora da UFG, 2011. p. 101-126.

<sup>2</sup> IPU - INTER-PARLIAMENTARY UNION. *Women in national parliaments*: situation as of 31 January 2011 – World Classification. Available in: <<http://www.ipu.org/wmn-e/classif.htm>>.

<sup>3</sup> Idem.

women: a) the right to vote and be eligible for the organs of public choice, b) participation in the design and execution of public policies and representation at all levels and spheres of government, c) participation in non-governmental associations, like political parties and unions, among others.

**In terms of recommendations (Paragraph 26)**, the positions of the Committee consolidate reflections on the impact of cultural and institutional factors in the phenomenon of political underrepresentation of women. It should be noted, in this sense, the General Recommendation n. 23, which suggests the definition of a concrete time frame to increase the number of women in public and political positions.

**The Recommendation** aimed at integrating women in public life and politics, "retrieves the normative and political background of the construction of human rights of women on political participation"<sup>4</sup>. Likewise, they are analyzed and interpreted given the contemporary context. For this purpose, the recommendation draws on two other articles of the Convention, namely: Article 4, which requires the adoption of special measures (gender quotas) to accelerate *de facto* equality between men and women, and Article 5 (item a) that demands the modification of social and cultural patterns and the elimination of gender stereotypes. Under this perspective, political discrimination of gender is addressed from the incidence of normative and cultural factors, with recurrent emphasis in the last ones.

The contribution of the cultural dimension can be synthesized in the comments of the Committee about the failure of legal measures (quota law) to potentiate women's political representation. Hence the recommendation to Brazilian government in order to combine laws with awareness-raising campaigns on the importance of political inclusion of women, understanding it as intrinsic to a democratic society.

Also about the quotas, we can say that the subject undeniably will be back in the evaluation of the VII Brazilian report. Especially taking into account that the review of this provision established in Law No. 12,034, during the mini-political reform of 2009, was insufficient to influence minimally on the absence of women in spheres of power and decision. Situation already evidenced by allusion to parliamentary statistics and low levels of female political empowerment, reminding election results. Therefore, remains an open issue the country's commitment in addressing the problem of underrepresentation of Brazilian women in politics.

## **Article 5 – Gender Stereotypes, Violence against Women, Maria da Penha Law and Trafficking in Women**

The Brazilian policy on combating violence against women is formulated in two main documents: National Plan of Policies for Women I and II (2003 and 2007), and National Pact on Combating Violence against Women (2007).

The National Pact was recently reviewed and expanded of four to five its structural axes<sup>5</sup>: A) Guarantee of Maria da Penha Law implementation; B) Expansion and Strengthening of the services network for women in violence situation; C) Guarantee of citizenship security and access to Justice;

---

<sup>4</sup> PIMENTEL, Silvia. *Experiências e desafios: Comitê sobre a Eliminação de Todas as Formas de Discriminação contra a Mulher (CEDAW/ONU) – relatório bienal de minha participação. [Experiences and challenges: Committee on the Elimination of All Forms of Discrimination against Women (UN/CEDAW) – biennial report on my participation]*. Brasília: Secretaria Especial de Políticas para as Mulheres, 2008. p. 48-49.

<sup>5</sup> The first version of the Pact included four structural axes: 1. Strengthening the Network of Care and Implementation of the Maria da Penha Law, 2. Protecting Sexual and Reproductive Rights and Combating the Feminization of AIDS 3. Combating Sexual Exploitation of Women and Adolescents and Trafficking in Women, and 4. Promoting human rights of women in prison situation. Refer: National Pact to Combat Violence against Women, p. 21. Available online. Access on: 12/18/2011. [http://www.sepm.gov.br/publicacoes-teste/publicacoes/2010/PactoNacional\\_livro.pdf](http://www.sepm.gov.br/publicacoes-teste/publicacoes/2010/PactoNacional_livro.pdf)

D) Guarantee of sexual and reproductive rights, combating sexual violence and trafficking in women;  
E) Guarantee of women's autonomy in violence situation and expansion of their rights. Although the Pact provides for the ensuring the application of Maria da Penha Law, as reported below, the full implementation of the Law is far from being accomplished.

Additionally, the budget for the Secretariat of Policies for Women of the Presidency of the Republic (SPM/PR), organ aimed to coordinate the policies of gender, has being systematically cut. The area of violence in the budget proposal for the next year (PPA) was reduced by about 40%<sup>6</sup>, affecting the implementation of the national policy on combating violence against women and the effectiveness of Maria da Penha Law.

### **Maria da Penha Law**

Since its creation, the Maria da Penha Law has being challenged by judges who consider it unconstitutional for protecting only the women. They also apply the mechanisms of conciliation and conditional suspension of the process, or require the representation of the victim in the crime of slight bodily injury, i.e., a formal statement of the desire of victims to prosecute the perpetrator. These institutes were expressly forbidden under the Maria da Penha Law because trivialize violence against women and impede the punishment of perpetrators.

These interpretations against the Law generated two lawsuits in the Federal Supreme Court: a Declaratory Action of Constitutionality (ADC No. 19) proposed by Attorney General's Office of the Union in 2007 requesting to the Supreme Court to decide the Law is not unconstitutional by protecting exclusively women. There is also a Direct Action of Unconstitutionality (ADIN No. 4424, April/2010), proposed by Attorney General's Office of the Republic in order to not be required the representation of woman in crimes of slight bodily injury. However, none of these actions were even judged by the Supreme Court. It is crucial obtaining a decision by the Supreme Court for ending these legal controversies.

Not only that, the Supreme Court prohibited the application of the conditional suspension of the process but many judges continue to apply, because there is no punishment for those who violate this decision.

Moreover, the law provides the creation of Special Courts for the trial of crimes of domestic violence with a multidisciplinary team comprised of law professionals, psychologists and social workers. However, there is difficulty in creating these courts and multidisciplinary teams.

According to the National Justice Council (CNJ), currently, there are 42 adapted courts and 52 special courts<sup>7</sup>, and most of them located in state capitals<sup>8</sup>. Even though we have today one court in each state, this number is insufficient for the demand. In order to exemplify: the state of São Paulo, with more than 41 million inhabitants, has only one special court, which demonstrates the resistance of local Judicial Branch in creating these courts. Also, in the state of Rio Grande do Sul there is only one court with more than 20 thousand processes in 2011. Compared to family processes, where there are eight family courts each with about 1500 cases, there is a total imbalance.

The number of processes in Special Courts grows every day. According to the CNJ, from September 2006 to March 2011 were more than 330,000 procedures involving domestic violence against women;

---

<sup>6</sup> Cf. Cfemea. [www.cfemea.org.br](http://www.cfemea.org.br)

<sup>7</sup> <https://sistema3.planalto.gov.br//spmu/atendimento/busca.php?uf=TD&cod=24.>, in 2010, there was 43 special courts for domestic violence.

<sup>8</sup> <https://sistema3.planalto.gov.br//spmu/atendimento/busca.php?uf=TD&cod=25>

sentenced 111,000 processes, as well as performed more than 9,000 prisons in flagrante and enacted 1500 preventive arrests<sup>9</sup>.

However, there is a problem in collecting this information, since they do not encompass the criminal courts and the adapted courts, which means that the number of domestic violence processes is much higher than reported. The lack of uniformity in data collection on the Maria da Penha Law does not allow having a precise idea of the number of processes actually judged<sup>10</sup>. There is need for the National Justice Council to standardize data collection on the court for the crimes of Law Maria da Penha.

The structure of the Courts is not compatible with the precepts of the Maria da Penha Law; courts with 2,000 processes should have one permanent judge and multidisciplinary teams and those with more than 5,000 processes, two permanent judges and multidisciplinary teams<sup>11</sup>. By the current situation of domestic violence courts, in the most courts does not meet these conditions. To illustrate, according the Judge of the Domestic Violence Court of Porto Alegre, RS, on August 5, 2011, the DV Court had 20,000 cases and only one Judge<sup>12</sup>, expressly contrary to the Manual of Routines of CNJ.

In addition, there are numerous procedures recorded in the Women's Police Station that should not necessarily generate police investigations. But the lack of training on one hand and the defenders at police stations on the other hand, turns any procedure in a criminal case, overloading the Special Courts.

The Maria da Penha Law provides mechanisms for monitoring and evaluation of its implementation. In 2007 was set up the Observatory for the Implementation of the Maria da Penha Law - Observe, an autonomous civil society's instance, which operates through a consortium of research centers and non-governmental organizations across the country, and has as its primary objective to monitor, from the collection, analysis and dissemination of certain information, the process of execution of the Maria da Penha Law (Lei 11.340/2006). Its results are consolidated in Assessment Reports based on the national network for women specialized police stations and Special Courts of Domestic and Family Violence<sup>13</sup>. However, due to the lack of continuity of public funding of this initiative, the Observatory is without the means to develop the activities for which it was created<sup>14</sup>.

### **Trafficking in Women**

In a recent Report on violence against women in the Southern<sup>15</sup>, UNODC recognizes that violence in family relationships increases the risk and exposure of girls and women to other forms of violence

<sup>9</sup> Refer: <http://www.cnj.jus.br/noticias/cnj/13542-lei-maria-da-penha-resultou-em-111-mil-sentencas-ate-julho-de-2010-constata-balanco-parcial-do-cnj>

<sup>10</sup> Idem.

<sup>11</sup> Cf. Manual of Routines and Structuring of the Courts of Domestic and Family Violence against Women, edited by the National Justice Council (2010)

<sup>12</sup> O sofrimento das mulheres. Artigo de Opinião, publicado no Jornal Zero Hora, em 05/08/2011, p. 14. [The suffering of women. Opinion piece published at Newspaper Zero Hora, in 08/05/2011]. Available online: [http://www.spm.rs.gov.br/conteudo.php?cod\\_conteudo=1189&cod\\_menu=6](http://www.spm.rs.gov.br/conteudo.php?cod_conteudo=1189&cod_menu=6)

<sup>13</sup> Domestic Violence and Women's Access to Justice in Brazil [http://www.observe.ufba.br/\\_ARQ/UNIFEM.pdf](http://www.observe.ufba.br/_ARQ/UNIFEM.pdf).

<sup>14</sup> Faced with high and persistent levels of violence against women, an important action of Brazilian Civil Society has been the campaigning execution, among which stands out the Campaign "Full Stop to Violence Against Women and Girls". This initiative is aimed at changing cultural standards that legitimize violence. In the Baseline document of the Full Stop Campaign in four countries in which it develops (We Can Stop the Violence Against Women, Brazil, Bolivia, Guatemala, Haiti), while detecting the perception by staff and policy makers about the rates and severity of violence, states are not able to guarantee women a life free of violence, or because the policies are insufficient, or because social acceptance is so great that the efforts are not significant. This problem is aggravated by the presence of social problems such as delinquency, sexual exploitation and trafficking in persons, which put women in situations of greater vulnerability.

<sup>15</sup> Refer: UNODC <http://www.unodc.org>

such as sexual exploitation and trafficking. It is known that trafficking is not restricted to women, but its occurrence is related to gender inequality.

The absence of concrete data on trafficking has been an obstacle to public policy formulation and repression more effective. The first survey that gathered national data on this human rights violation was the Research on Trafficking in Women, Children and Adolescents for Commercial Sexual Exploitation in Brazil, dating from 2002. The study identified 241 routes to the interstate and transnational trafficking, the profile of victims, offenders and suggested policies to address the problem. Almost 10 years later has no data that can map more effectively the trafficking routes, the way Brazilian women are trafficked and concrete measures for its prevention. Similarly, governmental measures taken to prevent and punish sexual exploitation of children in Brazil are insufficient.

### Article 10 – Education

Like other Latin American countries, in Brazil predominates an understanding from governmental sectors and civil society that challenges to guarantee the rights of women and, more broadly, gender equity (between men and women) in education have already been "solved." This view is reinforced by several reports produced by the Brazilian State in recent decades that indicate the higher schooling and better performance of women in education as a definitive answer to the international goals related to the gender inequities in education.

There is no denying the explicit progress in national education indicators with respect to women's access to schooling. However, this achievement is not enough to say that the country has achieved equity between men and women in this area and met the international goals of a non-sexist and non-discriminatory education. The moment in which the country finds itself in this challenge requires a more complex and nuanced view in order to capture inequalities and gender discrimination perpetuated in Brazilian education and reconfigure an action agenda in public policy more accurately.

The Brazil Report – Gender and Education<sup>16</sup> points out that gender problems in Brazilian education are mostly related to five major challenges, deeply interconnected:

1. **Persistent inequalities among Brazilian women:** progress on indicators of access and performance is marked by inequalities between women according to income, race and ethnicity and place of residence (rural and urban), highlighting the situation of black and indigenous women;
2. **Situation of worst performance and greatest obstacles to staying in school by the Brazilian boys,** especially black boys;
3. **Maintenance of a sexist and discriminatory education** in the school environment and **the concentration of women in courses and careers "so-called feminine";**
4. **Low appreciation of basic education professionals,** representing almost 90% of all professionals of education, which - in their overwhelming majority - earn undignified salaries and have to practice the profession in precarious working conditions;
5. **Unequal access to quality childhood education.**

<sup>16</sup> The Brazil Report – Gender and Education (Informe Brasil – Gênero e Educação) was produced in the context of the Campaign 'Non-Sexist and Anti-Discriminatory Education' by the organization Ação Educativa, with the collaboration of the organization: Ecos – Communication and Sexuality, Reference Center to the Victims of Violence (CNRVV) of Sedes Sapientiae Institute/SP and National Rapporteurship for the Human Right to Education of Brazil DHESCA Plataform. Available in: <http://www.acaoeducativa.org/images/stories/pdfs/informegeneroeducacaoout2011.pdf>

### **Educational Profile and Labor Market**

With regard to the educational profile of the population, the data presented show that, on average, Brazilian women achieved higher levels of education than men, showing better performance in most educational indicators. In 2005, of the total population of primary school graduates, 54.3% were female. In high school, women reached 57.6% of graduates and in higher education represent over 60% of total enrollment and more than 65% of graduates. Only 42.2% of boys between 15 and 18 years were enrolled in high school in 2006, whereas this rate reached 52.3% for girls of the same age<sup>17</sup>.

Women represent about 55% of the population with college degrees (undergraduate) and surpassed men in obtaining doctorate degrees from 2004. However, when it comes to higher levels of education (graduate), women account for only 43% of people over 16 years of study. Both higher education as the education of young people and adults, women in older age groups have worse indicators than men of similar age.

Despite the advances, it is essential to emphasize that there are still large inequalities between them, especially in regard to the variable race / color and place of residence (urban / rural). However, there are few data available that allow us to view and analyze more precisely the inequalities by crossing the variables of gender, race / color, place of residence, region, age, presence of disability, among others.

Country marked by profound social, economic, political and economical inequalities, Brazil has experienced in recent decades the growth of access to primary education, but still insufficient to ensure the universalization of compulsory education. Approximately 700 000 children and adolescents out of school, specifically between the ages of 4 and 17 years, more than 4 million children and youth out of school. In 2010, the country had the highest rate of repetition in primary education in Latin America (18.7%)<sup>18</sup> and largest dropout rate of Mercosur (3.2% for primary and 10% for high school)<sup>19</sup>. This reality leads to little more than half of students entering the school make it to the end of high school.

The funnel gets worse in the poorest regions, among the black population and among communities living in rural areas of the country. In most states in the Northeast, the completion rate of primary school is less than 40%. In all regions, the higher the grade attended, the greater the lag average of students<sup>20</sup>.

Among the strong differentials of schooling of the population by household situation is worth to highlight that the average years of study of the urban population is 7.3 years of study versus 4.2 years of study of rural population. Another important element to be observed between inequalities of color / race in education is the strong selectivity in basic education, in which black boys are most affected by schooling exclusion. In higher education, while among the general population we have 4.7% of people over 15 years of study, this percentage drops to 1.7% in relation to the black population and is only 0.12% among the total of indigenous population.

---

<sup>17</sup> IPEA, SPM, UNIFEM (2008). *Retrato das Desigualdades de gênero e raça [Portrait of Inequalities of gender and race]*. [Luana Pinheiro et al.] Brasília: Instituto de Pesquisa Econômica Aplicada (Ipea), Secretaria Especial de Políticas para as Mulheres (SPM) e Fundo de Desenvolvimento das Nações Unidas para a Mulher (Unifem). 3. ed. Available in: [http://www.ipea.gov.br/sites/000/2/pdf/livreto\\_retrato\\_3edicao.pdf](http://www.ipea.gov.br/sites/000/2/pdf/livreto_retrato_3edicao.pdf)

<sup>18</sup> UNESCO (2010). *Relatório sobre educação mundial. [Report on world education]*. Brasília: Organização das Nações Unidas para a Educação, a Ciência e a Cultura (Unesco). Available in: <http://unesdoc.unesco.org/images/0018/001886/188644por.pdf>

<sup>19</sup> IBGE (2010). *Síntese de Indicadores Sociais – uma análise das condições de vida da população brasileira [Summary of social indicators: an analysis of living conditions of Brazilian population]*. Rio de Janeiro: Instituto Brasileiro de Geografia e Estatística. Available in: [http://www.ibge.gov.br/home/estatistica/populacao/condicaoedevida/indicadoresminimos/sinteseindicais2010/SIS\\_2010.pdf](http://www.ibge.gov.br/home/estatistica/populacao/condicaoedevida/indicadoresminimos/sinteseindicais2010/SIS_2010.pdf)

<sup>20</sup> Haddad, S. (2007). *Educação e Exclusão no Brasil. [Education and Exclusion in Brazil]*. São Paulo, Ação Educativa, 2007.

The expansion of access to education did not come followed by a quality education, so that most children and young people who pass by the school can not reach the minimum levels of learning in reading, writing and mathematics. This situation leads that the country currently has more than 20.3% of its population considered functionally illiterate, about 30 million people who can not interpret simple texts (PNAD/IBGE/2010). In the Northeast region, the problem affects more than 30% of the population, while in the southeastern the percentage is 15%.

Several national studies indicate that although women demonstrated a higher education than men, this advantage is not yet reflected directly in the improvement of income, working conditions, occupation of positions of leadership and the in the sharing of domestic work, still under predominant responsibility of women. According to ILO's document, linked to the organization's initiatives for the promotion of decent work<sup>21</sup> in Brazil, and developed by National Household Sample Survey (PNAD/2008), of the 97 million people over 16 years old in labor market, women accounted for about 42.5 million (43.7% of total) and black population (men and women) around 48.5 million people (about 50%).

### **Education Policies**

#### Policies aimed at eradicating gender stereotypes (in content and daily school)

The subject is covered in the programs of purchase and distribution of teaching material (National Textbook Program - PNLD, National Textbook Program for Youth and Adult Literacy - PNLA and National Textbook Program for Secondary Education - PNLEM). Their announcements determine, for example, that the books included in the programs should recognize and properly treat gender diversity. There are similar recommendations on issues such as ethnic-racial and regional diversity. However, there are no systematic evaluations on the impacts of these recommendations in publishing market, being still quite present the existence of very much stereotyped textbooks in relation to issues of gender, race, sexual diversity, region, and so on.

For its part, the Award Building Gender Equality / Women and Science Program can be considered an action that contributes to the eradication of gender stereotypes in so far as puts as its goal the encouragement of reflection on gender relations within the student community and of teachers, both of secondary education and professional as higher education. In 2009 included a new category of awards: in addition to choosing the best essays (high school) and research papers (undergraduate, master and doctorate), can also compete public and private schools that have developed actions in the school community in favor of gender equality. This extends the recognition in favor of equality between women and men from the purely individual sphere of each participant to the collective domain.

There is, finally, two ongoing actions that have the issue of gender as their primary focus and concern both the eradication of stereotypes as discriminatory attitudes and practices based on sex, race, ethnic origin, pregnancy, sexual orientation, gender identity, diseases, socioeconomic status, among others.

The Gender and Diversity in the School Course is an inter-institutional action<sup>22</sup>, initiated in 2006, whose aim is to train, in a semi-presence way, educators of public basic education network in gender issues, sexual orientation and ethnic-racial relations, in order to provide them with tools to reflect critically on the individual and collective pedagogical practice and combat all forms of discrimination in the school environment. Is missing systematic evaluations on the impacts of these trainings in everyday school life and

---

<sup>21</sup> According to the ILO definition, decent work is a productive work, properly paid, exercised in conditions of freedom, equity and security and able to guarantee a dignified life for women and men workers.

<sup>22</sup> Special Secretariat of Policies for Women, Special Secretariat of Policies for the Promotion of Racial Equality and Ministry of Education.

there is also the challenge of how to expand them so as to enable integrating this agenda in action list of all professional educators in the country.

The National Plan for Human Rights Education - PNEDH, in turn, has four goals directly related to gender issues, three of them for basic education and one for tertiary education. However, according to the MEC, the implementation of the goals of PNEDH start in 2009, especially through training and qualification of professionals of basic education and financing to the preparation of teaching materials. In this sense it is still difficult to assess how these policies are being implemented and what are their results. In any case, it is worth mentioning that these four goals were already covered in a certain way in the National Education Plan, prepared in 2001, albeit without much detail. They are: 1) promote the inclusion in the school curriculum, of themes concerning gender, gender identity, race and ethnicity, religion, sexual orientation, disability, among others, as well as all forms of discrimination and rights violations, ensuring continuing education of female and male employees; 2) support projects dealing with all forms of discrimination and rights violations in school; 3) propose actions based on principles of coexistence, in order to build a school free of prejudice, violence, sexual abuse, harassment and corporal punishment, including procedures for conflict resolution and ways of dealing with violence or intimidation and harassment; and 4) develop strategic policies of affirmative action in higher education institutions that allow the inclusion, access and permanence of people with disabilities and those discriminated against on grounds of gender, sexual orientation and religion, among other segments, and generational and racial-ethnic segments.

#### Compensatory policies aimed at vulnerable groups, especially women's groups

There were not found compensatory policies exclusively or especially directed at women. Likewise, compensatory policies installed<sup>23</sup> in that period do not make explicit the goals or actions specifically toward women or men. Neither the sex-disaggregated data available are very detailed. In the case of ProUni, the site reports that in 2009, 47.55% of beneficiaries with scholarships were women. It is missing, for example, disaggregated data by course, region and type of grant (full or partial).

Finally, is important to emphasize that other education and training programs also implemented by the Ministry of Education does not make clear the approach of issues relating to gender equality. Could not be found reference to the promotion of egalitarian practices between women and men in the following programs: National Program School of Managers of Public Basic Education (Programa Nacional Escola de Gestores da Educação Básica Pública), Program for Supporting Higher Education Indigenous Graduation - PROLIND (Programa de Apoio à Formação Superior e Licenciaturas Indígenas), National Network of Teacher Education (Rede Nacional de Formação de Professores) and the National Program of Training for Municipal Councillors of Education - Pro-Council (Programa Nacional de Capacitação de Conselheiros Municipais de Educação – Pró-Conselho).

#### **Situation of Brazilian Education: mapping of some inequalities**

##### Number of school-age people outside the educational system

In accordance with the 2007 National Household Sample Survey (PNAD), 2.4% of children 7-14 years - referred to the compulsory stage of primary education - are out of school. They are around 680 000 children aged 7 to 14 years: most of them black, indigenous, maroon (quilombolas), disabled, poor and under risk of violence and exploitation. Of this total, about 450,000 are black, which explains, once again, the challenge of

<sup>23</sup> Programa Universidade para Todos - ProUni [University for All Program - ProUni], Programa de Ações Afirmativas para a População Negra nas Instituições Federais e Estaduais de Educação Superior - Uniafro [Affirmative Action Program for Black Population in the Federal and State Higher Education Institutions - Uniafro] and Programa Diversidade na Universidade [Diversity in the University Program].

racial inequality in education<sup>24</sup>. Of all children out of school, 312 thousand are girls and 368 thousand are boys, one more data that configures the disadvantage of boys over girls in Brazilian education.

Approximately 18% of Brazilian youth aged 15 to 17 years are out of school, more than 1 million teenagers. The girls have an advantage over boys both in associated to schooling and lower age-grade distortion. They are 18.7% of boys and 17% of girls aged 15 to 17 years out of school, however, of this total 44% had not finished primary school and only 48% studied the secondary school, the level that would be appropriate this age group. The group of 15 to 17 years shows a large age-grade distortion, although the indicators are improving net attendance in the country. The net attendance rate in high school in 2007 was 53.8% for women, whereas among men was 42.4% (UNICEF 2009).

For the age group 18-25 years 70% of men and 68.2% of women are out of school. According to the report *The Right to Learn (O Direito de Aprender)*<sup>25</sup> the difference in schooling between men and women in this age group is higher in the Southeastern and South, the most economically developed regions.

No sex-disaggregated information is available on the number of age-school people out of school with disabilities and by area of residence, for the indigenous and black populations.

#### Indicators of permanence and completion

There is no sex-disaggregated information for the completion rates of primary and secondary school, entrants in elementary education (according to ages), entrants in elementary education coming from preschool, transition rates of the last year / grade of elementary education to the first year of high school, school repetition rates. Qualitative studies and states in Brazil indicate that repetition is more prevalent among boys.

Data on age-grade distortion once again make explicit gender inequalities, at a disadvantage of boys and adolescents<sup>26</sup>. The gaps between boys and girls grow along the elementary school and intensify in high school. It is stressed existing inequality between white girls, which present the rate of age-grade distortion in elementary school of 19.1%, and black boys, with a rate of 41.6%. The difference between boys and girls in the countryside is more intense than in the city, reaching 11.8% in rural areas and staying at 7.3% urban areas.

Domestic work, mostly performed by girls, and insertion of boys in the labor market are factors that affect the schooling of girls and boys, mainly of black boys from the poorest regions of the country.<sup>27</sup> However, work is only one factor - among others - impacting on educational trajectories, without there being a direct and linear cause and effect (lag in school + work)<sup>28</sup>. Of every ten boys five lag behind and only one of them works. It is necessary to turn our gaze to intra-school factors to understand this reality in a wider and

<sup>24</sup> Unicef (2009). *O direito de aprender: potencializar avanços e reduzir desigualdades*. [The right to learn: potentiate progresses and reduce inequalities]. Fundo das Nações Unidas para a Infância (Unicef). [Coordenação geral: Maria de Saete Silva e Pedro Ivo Alcântara]. Brasília, DF: UNICEF.

<sup>25</sup> UNICEF (2009). *O direito de aprender: potencializar avanços e reduzir desigualdades* [The right to learn: potentiate progresses and reduce inequalities]. Fundo das Nações Unidas para a Infância (Unicef). [Coordenação geral Maria de Saete Silva e Pedro Ivo Alcântara]. Brasília, DF: UNICEF.

<sup>26</sup> IPEA, SPM, UNIFEM (2008). *Retrato das Desigualdades de gênero e raça*. [Portrait of Unequalities of gender and race]. [Luana Pinheiro et al.]. Brasília: Instituto de Pesquisa Econômica Aplicada (Ipea), Secretaria Especial de Políticas para as Mulheres (SPM) e Fundo de Desenvolvimento das Nações Unidas para a Mulher (Unifem). 3. ed. Available in: [http://www.ipea.gov.br/sites/000/2/pdf/livreto\\_retrato\\_3edicao.pdf](http://www.ipea.gov.br/sites/000/2/pdf/livreto_retrato_3edicao.pdf)

<sup>27</sup> Artes, A. C. A.; Carvalho, M. P. de (2010). —O trabalho como fator determinante da defasagem escolar dos meninos no Brasil: mito ou realidade? [Work as a determining factor for school lagging of boys in Brazil: myth or reality?]. Cadernos Pagu (34), janeiro-junho de 2010. Campinas, Núcleo de Estudos de Gênero Pagu/Unicamp.

<sup>28</sup> Idem.

complex way, in particular, the place of masculinity and femininity associated with racial belonging, within the schools<sup>29</sup>.

According to the report *The Right to Learn*<sup>30</sup>, teen pregnancy is among the leading causes of school dropout girls in Brazil. According to the study *Educational Status of Brazilian Youth Aged 15 to 17 years*, mentioned in the report, 1.6% of girls in this age group who study are mothers. This number jumps to 28.8% among young girls who are outside of the classroom, showing that teenage pregnancy is an important factor for evasion and abandonment of girls, particularly among girls from low-income families. Moreover if we analyze the data on the birth rate among teenagers, it is clear that the regions with the highest number of young mothers are also those with higher dropout rates.

In the age group between 15 and 18 years, in a reverse movement of the white and black girls, the white and black boys have their gross attendance rate decreased slightly over the decade, and the reduction was greater among black boys. The white and black adolescents increase their frequency moving from 83.6% to 86% (white girls) and 76.4% to 80.5% (black girls) between 2001 and 2007. The decrease in gross attendance rate of white and black boys intensifies in the age group 19-24 years, even more among young black men, who pass from 31.7% to 27.2%. In this age group, black girls also face the drop in gross enrollment ratio, from 31.7% to 27.7%. Only the young white women maintain the frequency stability in the age group 19-25, with the percentage of 36.1%

With respect to inequality between black and white children in early childhood education 0-3 years, the difference reaches 5%, at a disadvantage for the black population. When we observe the difference between urban and rural children, inequality reaches 13 points to the detriment of rural children. There is a small advantage in early childhood education of 0-3 years of boys over girls throughout the decade, from 10.8% and 10.4% in 2001 to 18.4% and 17.8% in 2008, respectively (Observatory of Equity, 2009), due to the profile of the population in this age group, where boys are in slight majority.

### **Illiteracy**

The illiteracy rate for the population of 15 years of age or over had a fall in the last decade from 13.6% in 2000 to 11.4% in 2004 and reaching 10% in 2008. In 2010, the rate was 9.6%. According to data from PNAD 2008, the rate has stagnated between 2007 and 2008, although the absolute number has increased from 14.687 million to 14.736 million people. Between 2000 and 2008, the illiteracy rate among men fell from 12.4% to 10.2% and among women the decline was from 12.3% to 9.8%. Importantly to highlight it was from 2000 that Brazilian women began to have rates of illiteracy lower than men.

Illiteracy rates are higher among older age groups. Although all age groups experience a decrease in the illiteracy rate in the period 2001-2007, proportionally, the decrease was greater among youths from 15 to 17 years and 18 to 24, which went from 3% to 1.7% and from 4.8% to 2.4%, respectively. Among the researched aged 25 years or more, although there was fall, focuses on the largest proportion of Brazilians who can not read or write.

Despite the improvement of indicators in recent years, illiteracy among young black males from 15 to 29 years is nearly two times higher than among whites - rate that was three times higher early in the decade (Unicef/2009)<sup>31</sup>. The gap between whites and blacks increased in higher age groups; it is observed that is higher among men than among women, at a disadvantage of young people and black men.

Again, it is observed that the greatest incidence of illiteracy is in rural areas. Between 2001 and 2007, the illiteracy rate of people aged 15 or older ranged from 28.7% to 23.3%, and, unlike in urban areas, men

<sup>29</sup> Idem.

<sup>30</sup> Unicef (2009). *O direito de aprender: potencializar avanços e reduzir desigualdades [The right to learn: potentiate progresses and reduce inequalities]*. Fundo das Nações Unidas para a Infância (Unicef). [Coordenação geral Maria de Saete Silva e Pedro Ivo Alcântara]. Brasília, DF: UNICEF.

represent the majority of non-literate people. Between 2001 and 2007, women still constitute the majority of illiterate people in the urban area.

With regard to functional illiteracy in the population from 15 to 64 years, men are the majority. The rate related to them went from 40% in 2001 to 29% in 2009 and to women from 39% to 27% in the same period, according to the research "National Indicator of Functional Illiteracy" (Inaf), developed by Instituto Paulo Montenegro / Ibope and Ação Educativa.

Despite the improvement of indicators in recent years, illiteracy among young black males from 15 to 29 years is nearly two times higher than among whites - rate that was three times higher early in the decade (Unicef/2009). Again, it is observed that the greatest incidence of illiteracy occurs in rural areas and among women and black men.

### **Article 12 – Sexual and reproductive health, abortion**

In accordance to the National Monitoring Report of the Millennium Development Goals, March 2010<sup>32</sup>, Brazil will not achieve the goal of reducing maternal mortality by 2015, the rate of 35 deaths per 100,000 live births. Currently the ratio of maternal mortality is 75 deaths per 100,000 and the projection from 2008 to 2015 is 69 to 77 deaths per 100,000 live births. According to the Report, there was reduction of 56% in direct obstetric causes and an increase of 33% in indirect causes related to preexisting diseases that were aggravated by circulatory and respiratory problems in pregnancy.

The Report states that to achieve the Millennium Development Goal 5 related to maternal health and reduction of maternal mortality would require the implementation of health actions for family planning, abortion care provided by law, qualification of prenatal care performed by family health teams, timely referral of pregnant women at risk to specialist services, proper care during labor and postpartum and treatment of obstetric emergencies and urgencies. The greatest problem for the reduction of maternal mortality in Brazil refers to the improvement of the quality of attention and organization of health care services to women, since the coverage is practically considered of universal access with at least one prenatal visit performed and assisted delivery (76% of deliveries are performed in the Unified Health System) and high prevalence of contraceptive use.

Since the last report to the CEDAW Committee, the government implemented a number of actions aimed at reducing maternal mortality that were not enough to guarantee the right to sexual and reproductive health. The main causes of maternal mortality in Brazil since 1990, has been hypertension, haemorrhage, puerperal infections and abortion. In order to reduce maternal death, the government created in 2011 the Stork Network (Rede Cegonha) program<sup>33</sup> that provides appropriate care to women and their children meeting a real need for women who want to get pregnant - since many are poorly served by public services and lose their children or even their lives waiting for beds in overcrowded hospitals. However, the program serves only pregnant women, and is a step backwards from a vision of integral health woman<sup>34</sup>, whose right to protection of public health is independent or not to opt for motherhood. The program focuses on prenatal care, childbirth and puerperium as a strategy for reducing maternal mortality, which is insufficient to achieve this purpose.

---

<sup>32</sup> Objetivos de Desenvolvimento do Milênio – Relatório Nacional de Acompanhamento [Millennium Development Goals - National Monitoring Report]. Brasília: Ipea, 2010.

<sup>33</sup> [Rede Cegonha: programa voltado para o atendimento integral das mães e das crianças](http://blog.planalto.gov.br/rede-cegonha-programa-voltado-para-o-atendimento-integral-das-maes-e-das-criancas) [Stork Network: program aimed at comprehensive care of mothers and children]. Available in: <http://blog.planalto.gov.br/rede-cegonha-programa-voltado-para-o-atendimento-integral-das-maes-e-das-criancas>. Access on Sept. 2011.

<sup>34</sup> The National Policy on Comprehensive Health Care for Women (PNAISM, 2004), which is the continuation of the Program of Integral Assistance to Women's Health (PAISM, 1984) had already surpassed the concept of maternal and child health by the notion of women's health, which corresponds to a comprehensive view.

**Unsafe abortion: the fourth cause of maternal mortality in Brazil**

In Brazil, unsafe abortion is among the leading causes of maternal mortality, accounting for 11% of all deaths of women occurred during pregnancy, childbirth or postpartum. Black women have a three times greater risk of dying from unsafe abortion than white women, women with low education have poor access to family planning policies to prevent an unwanted pregnancy. In Salvador, where the population is mostly black, from the beginning of the 90s abortion is the leading single cause of maternal mortality<sup>35</sup> and is the third cause of maternal death in the city of São Paulo.

Statistics reveal alarming data that put abortion as a public health problem. It is estimated that in Brazil occur over 1 million abortions<sup>36</sup> and the relationship between its unlawfulness and maternal mortality is already recognized. In addition, each year is recorded 250,000 hospitalizations resulting from complications due to abortion's practice<sup>37</sup>.

The same study conducted in Recife and Petrolina, state of Pernambuco, reports that the percentage of abortion in relation to obstetric hospitalizations from 2003-2007 was 9.7%. In Bahia, 20.1% of induced abortions occurred in women under 20 years of age (GROUP CURUMIM; CFEMEA; IPAS-Brazil, 2008). In Porto Alegre, in 1999, 2000 and 2001 it was found that post-abortion infection and hypertensive disorders of pregnancy each represent 15% of the causes of maternal death (RIQUINHO and CORREIA, 2006).

In the publication "Trails of Women's Health, Sexual Rights and Reproductive Rights"<sup>38</sup>, Araujo notes that, according to World Health Organization (WHO), (...) almost 50% of pregnancies are undesired and one in nine women resort to the practice of abortion to disrupt them. Of the 46 million women who decide each year by abortion, 78% live in developing countries and 22% in developed countries. Annually about 19 million unsafe abortions are performed worldwide, with 96% of this total occurring in poor countries. It is estimated that in Latin America and the Caribbean, 18 million pregnancies occur each year, and 52% of them were not planned, with 23% ending in abortion "(WHO apud ARAÚJO, 2010).

Analysis of the Commission on Citizenship and Reproduction<sup>39</sup> of data from the Ministry of Health reports that during the period 2003 to 2007, there was a 16.6% reduction in hospitalizations for curretage due to abortion, from 250,000 in 2003 to 200,000 in 2007, as a consequence of reproductive planning policy which resulted in an increase in purchasing and distribution of contraceptives methods to a greater number of municipalities. According to Menezes and Aquino, (...) hospital admissions due to abortion are more frequent in the Northeast and Southeast of country, observing, however, in these regions, as well as in the South, in all age groups, a reduction of its occurrence between 1992 and 2005 (MENEZES and AQUINO, 2009, p. S196).

---

<sup>35</sup> As Dossie "A Realidade do Aborto Inseguro na Bahia: a ilegalidade da prática e seus efeitos na saúde das mulheres em Salvador e Feira de Santana" ["The Reality of Unsafe Abortion in Bahia: the illegality of the practice and its effects on women's health in Salvador and Feira de Santana"] (ARAÚJO, SIMONETTI, SOUZA, 2008) reveals that death by abortion occurs primarily in women of the extracts socially disadvantaged, young, black, aged 14-29 years, with average and median of 23 and 21 years respectively.

<sup>36</sup> Adesse, Leila e Monteiro, Mario. 2007. Magnitude do aborto no Brasil: aspectos epidemiológicos e sócio-culturais. [Magnitude of abortion in Brazil: epidemiological and sociocultural aspects]. IPAS Brasil/IMS/UERJ. ([http://bvsmms.saude.gov.br/bvs/publicacoes/magnitude\\_aborto\\_brasil.pdf](http://bvsmms.saude.gov.br/bvs/publicacoes/magnitude_aborto_brasil.pdf)).

<sup>37</sup> REDE NACIONAL FEMINISTA DE SAÚDE E DIREITOS SEXUAIS E REPRODUTIVOS, Dossiê Aborto Inseguro [Unsafe Abortion Dossier], 2001.

<sup>38</sup> Rede Feminista de Saúde, Caderno 01, 2010 [Feminist Health Network, Book 01, 2010]

<sup>39</sup> O boletim da CCR, de 31/08/2010 [CCR Bulletin, 08/31/2010] (CEBRAP, 2010).

According to 2008 data, of 215,000 hospitalizations for complications of abortions at SUS, 3230 were associated with legal abortions; assuming that one in five abortions resulted in admission to hospital, these data suggest that more than one million induced abortions were conducted in 2008 (21 per 1,000 women aged between 15 and 49 years (VICTORA et al., 2011).

These deaths and sequelae have not received due attention from society, nor an effective response of the Brazilian State, although advocacy groups for women's rights, health professionals and some government sectors have had already positioned on the need for debate on this serious public health problem.

Research from the University of Brasilia (UNB), 2010, in partnership with Anis - Institute of Bioethics, Human Rights and Gender, and funded by the National Health Fund, held in all states revealed that the woman's profile who stops pregnancy is married, have children, religion and belongs to all social classes. Of the 2002 respondents in the study, from 18 to 39 years, 15% say they have done at least one abortion. Designed on the country's female population in this age group, which is 35.6 million, according to the Brazilian Institute of Geography and Statistics (IBGE), this number would represent 5.3 million women. Of all women who stated in the research have already had at least one abortion, 64% are married, 81% are mothers and 80% of them have a religion; 24% of interviewed who did an abortion are between 20 and 24 years.<sup>40</sup> According to the research results, one in seven Brazilian women from 18 to 39 years has already made at least one abortion in life, the equivalent of a crowd of five million women. As the study, between 35 and 39 years the proportion is even higher: one in five women have already had an abortion.

The Brazilian legislation does not foresee termination of pregnancy in cases of anencephaly, which affects particularly women with low incomes who use the public health system to perform this procedure. Judicial decisions are often granted when there has already been delivery. Hanging trial of the ADPF 54<sup>41</sup> since 2004, in the Supreme Court. Pregnant women of anencephalic fetuses are forced to resort to the judiciary, prolonging their physical and mental suffering<sup>42</sup>.

Several monitoring committees of international human rights treaties of the United Nations identified the implications in human rights related to unsafe abortion and the need to revise their restrictive legislation on abortion. The CEDAW Committee established in General Recommendation 24 that: "*When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion*" [CEDAW COMMITTEE, 1999]. On July of 2007, CEDAW Committee recommended to Brazilian government "*to continue its efforts to enhance*

---

<sup>40</sup> Refer: O Liberal PA, 13 de junho de 2010, Pesquisa revela detalhes sobre o aborto [Research reveals details on abortion] <<http://www.orm.com.br/projetos/oliberal/interna/default.asp?modulo=247&codigo=475518>>; Folha de São Paulo, 22 de maio de 2010, 1 em cada 7 brasileiras de 18 a 39 anos já fez aborto [One in each seven Brazilians from 18 to 39 years old have already had an abortion] <[http://www.agenciapatriciagalvao.org.br/images/stories/PDF/noticias/not\\_aborto/folhasp220510.pdf](http://www.agenciapatriciagalvao.org.br/images/stories/PDF/noticias/not_aborto/folhasp220510.pdf)>.

<sup>41</sup> Arguição por Descumprimento de Preceito Fundamental nº54 [Claim of breach of fundamental precept] that foresees the possibility of pregnancy termination of anencephalic fetuses without need of judicial authorization, if it is desired by woman and with medical evaluation. The lawsuit was presented in 2004 by the Confederação Nacional dos Trabalhadores de Saúde [National Confederation of Health Workers].

<sup>42</sup> At the International Conference on Population and Development in Cairo in 1994, and later at the World Conference on Women in Beijing in 1995, the States recognized that sexual and reproductive rights are human rights. Since then, it have changed the paradigm of female fertility control for a perspective of promoting formal and substantive equality between men and women in all dimensions of their existence, such as sexual and reproductive self-determination, without discrimination, coercion and violence. International documents originating in these conferences - the Cairo Programme of Action and the Beijing Platform for Action - are guidelines for government action in the area of sexual and reproductive health. The Brazilian government, by signing these documents, has assumed a political commitment to achieve the goals set forth therein. Paragraph 106 K of the Beijing Platform for Action, 1995, provides that government should "*to consider reviewing laws containing punitive measures against women who have undergone illegal abortions*".

women's access to health care, in particular to sexual and reproductive health services" and "to expedite the review of its legislation criminalizing abortion with a view to removing punitive provisions imposed on women who undergo abortion, in line with general recommendation 24 and the Beijing Declaration and Platform for Action" [CEDAW COMMITTEE, 2007].<sup>43-44</sup>

Nevertheless, in Brazil the practice of abortion is considered a crime, allowed only in cases involving risk of life for the woman and pregnancy resulting from rape and sexual violence<sup>45</sup>. The criminalization of abortion prevents women from fully accessing their right to health, generating flagrant discrimination in access to health, and a form of discrimination against women that restricts the exercise of their human rights and fundamental freedoms under the terms defined in Article 1 of CEDAW<sup>46</sup>. Imposes high costs to women, but does not prevent its practice, and involves health risks inherent to the clandestinity. The restriction of criminal law violates the rights of women to a self-determined decision (autonomy and freedom), their sexual rights (decision about sexuality free from coercion, discrimination and violence) and reproductive rights and the women are subjected to constraints and public exposure on the part of police and judicial authorities and the media. Moreover, it violates their right to privacy, and infringes their constitutional rights to dignified treatment and access to justice.

Although abortion is a public health problem with flagrant implications for women's human rights, the permanence of criminalization has allowed systematic offensive of highly repressive and police nature, which means often, violations of human rights of women<sup>47</sup>. In extreme situations the police receives complaints against the women attended in health services, in violation of professional secrecy.<sup>48</sup>

The Technical Standards of the Ministry of Health on abortion care say, "*the goal of the health service is to ensure the right to health. Its procedures should not be confused with procedures reserved to the*

<sup>43</sup> Refer: CEDAW/C/BRA/CO/6, 10 August 2007, Paragraph 30 <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/460/28/PDF/N0746028.pdf?OpenElement>>.

<sup>44</sup> The Human Rights Council of the United Nations (UN) recognizes the avoidable maternal morbimortality as a human rights issue. More than 79 UN Member States recognize that the issue of maternal health is a challenge to the exercise of human rights and that governments should intensify efforts to reduce high and unacceptable global rates. In annex to this document follows a copy of the resolution of the UN Human Rights Council on preventable maternal mortality and morbidity and human rights, including an indication of the countries that supported the resolution, including Brazil (Annex II, A/HRC/11/L.16/Rev.1, 12<sup>th</sup> of June of 2009).

<sup>45</sup> Brazilian law punishes abortion in its Penal Code, in Article 124, with a penalty for women who practice abortion of 1 year to 3 years in prison. The crime of abortion is characterized as a crime against life in the Penal Code.

<sup>46</sup> CEDAW Convention. Art. 1: "For the purposes of the present Convention, the term "discrimination against women" 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". Also in accordance to the General Recommendation 24 of CEDAW Committee.

<sup>47</sup> Prisão de médico em clínica no Bairro de Vila Isabel, Rio de Janeiro [Arrest of physician in clinic at the District of Vila Isabel, Rio de Janeiro: <http://oglobo.globo.com/rio/agentes-da-inteligencia-da-secretaria-prendem-dois-medicos-em-clinica-de-aborto-em-vila-isabel-2760889>

Ministério Público solicita prisão de médico que realiza abortos em Manaus [Prosecutor requests arrest of doctor who performs abortions in Manaus]: [http://acritica.uol.com.br/manaus/MPE-medico-realiza-aborto-Manaus\\_0\\_584941550.html](http://acritica.uol.com.br/manaus/MPE-medico-realiza-aborto-Manaus_0_584941550.html)

Mulher presa em Nova Andradina por aborto G. C. A.S. (19 anos) [Woman arrested in Nova Andradina by abortion G.C. A.S (19 years): <http://www.acritica.net/index.php?conteudo=Noticias&id=28664>

<sup>48</sup> In this sense, refer to cases described in the report Mortalidade Materna e Direitos Humanos: as mulheres e o direito de viver livre de morte materna evitável [Maternal Mortality and Human Rights: women and the right to live free from preventable maternal death], ADVOCACI, 2005, p. 267 - 82. Available in: [http://www.ipas.org.br/arquivos/Livro\\_Mortalidade\\_Materna\\_site.pdf](http://www.ipas.org.br/arquivos/Livro_Mortalidade_Materna_site.pdf)

*police or the courts*".<sup>49</sup> However, the right to privacy of women is not being preserved when they are investigated by the practice of illegal abortion, despite the legal protection of privacy<sup>50</sup>.

It is worth to mention that on December 26, 2011, the President Dilma Roussef launched the Provisional Measure 557 (MP 557) establishing the **National System of Registration, Vigilance and Monitoring of Pregnant and Puerperal Woman for the Prevention of Maternal Mortality**. The MP 557 aims to ensure the improvement of access, coverage and quality of maternal health care, especially in high-risk pregnancies (Article 1). The system consists of the universal and compulsory registration of all pregnant and puerperal women. However, the MP 557 violates the right to privacy for the following reasons: expressly provides that the pregnant woman signs a consent form to authorize and limit the availability of information about her reproductive life to be entered in the register; it broadens the control by the state on the pregnancy and reproductive private life of women, which are to be monitored and supervised from its entry in the register during the prenatal period until delivery and postpartum; the register is made compulsorily by the establishment of public or private health or and shall will contain information on the diagnosis and the therapeutic project; violates the confidentiality and interferes in doctor-patient relationship.

Moreover, it gives the unborn the same moral and legal status of pregnant women, which violates the Constitution and aims to prevent legal abortion<sup>51</sup>. Thus, the MP 557 is unsatisfactory for prevent maternal mortality, since is focussed on access to prenatal care and does not guarantee the quality of care, the main problem to be faced. Also, does not meet the recommendations of the CEDAW Committee in the case *Alyne da Silva Pimentel v Brazil* of preventable maternal death<sup>52</sup>.

Brazil is in the opposite direction in fulfilling its international obligations to protect human rights related to reproductive self-determination and maternal mortality reduction, as shown by the report of the Special Rapporteur on the Right to Health of the United Nations (UN). According Anand Grover<sup>53</sup> health is "*the right of everyone to the enjoyment of the highest attainable standard of physical and*

<sup>49</sup> MINISTÉRIO DA SAÚDE. Norma Técnica Prevenção e Tratamento dos Agravos Resultantes da Violência Sexual contra Mulheres e Adolescentes. [Technical Standard on the Prevention and Treatment of Harm Resulting from Sexual Violence against Women and Adolescents]. Ministério da Saúde: Brasília DF, 2005.

MINISTÉRIO DA SAÚDE. Norma Técnica Atenção Humanizada ao Abortamento. [Technical Standard of Humanized Care for Abortion]. Ministério da Saúde: Brasília - DF, 2005b.

<sup>50</sup> Brazilian law protects the right to privacy in Article 5 of the Federal Constitution. Article 154 of the Brazilian Penal Code punishes the illegal disclosure of professional secrecy with imprisonment of up to one year.

<sup>51</sup> By establishing in Article 16, amending the Law 8080 of 1990 and introduced Article 19-J: "The services of public and private health are obliged to ensure to the pregnant women and the unborn the right to prenatal care, childbirth, birth and puerperium safe and humanized". This article directly contravenes the Federal Constitution, which protects the right to life from the birth and not from the moment of the conception. Furthermore, contravenes the guarantee of the right to abortion provided by law for cases of rape or life risk established in Article 128, II of the Criminal Code and creates legal insecurity, violating rights of women to equality, liberty, reproductive autonomy.

<sup>52</sup> According to the Cedaw, Brazilian State violated its obligations in relation to access to health, access to justice and obligation to regulate the activities of private health service providers. On that basis, established appropriate reparation to the family of Alyne, including financial compensation. Made also the following general recommendations: a) Ensure women's rights to safe motherhood and affordable access for all women to adequate emergency obstetric care; b) Provide adequate professional training for health workers, especially on women's reproductive health rights, including quality medical treatment during pregnancy and delivery, as well as timely emergency obstetric care; c) Ensure access to effective remedies in cases where women's reproductive health have been violated and provide training for the judiciary and for law enforcement personnel; d) Ensure that adequate sanctions are imposed on health professionals who violate women's reproductive health rights; e) Reduce preventable maternal deaths through the implementation of National Pacto for the Reduction of Maternal Mortality at state and municipal levels, including by establishing maternal mortality committees where they still do not exist.

<sup>53</sup> <http://www.clam.org.br/publique/cgi/cgilua.exe/sys/start.htm?infoid=9051&sid=7>

*mental health*".<sup>54</sup> According to Anand Grover health is "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". By relating health and criminal laws, the report advocates the removal of those criminal barriers as an obligation of States and points out "these laws infringe women's dignity and autonomy by severely restricting decision-making by women in respect of their sexual and reproductive health" and "perpetuate the stigmatization and marginalization of women".

### **Health of Black Women, sexual and reproductive rights, violence**

The complexity of the phenomenon of maternal mortality in the Brazilian context requires deep analysis of variable race/color. Maternal deaths that occur mostly in women of lower social classes, with low education and low wages, focuses in a particular way on black women. Using data on maternal deaths occurred in Brazilian capitals, in the city of São Paulo, in three municipalities in Bahia (Alagoinhas, Feira de Santana and Salvador) and in the state of Paraná, in 2001, Martins<sup>55</sup> has already had pointed out that the rates of maternal mortality among black ("pretas") women were nearly seven times higher (275/100,000 live births) than among white women (43/100,000 live births) or among black ("pardas") women (46/100,000 live births). Those data remain current<sup>56</sup>, as evidenced by records of the health system information of the Ministry of Health of Brazil, showing the difference of the Maternal Mortality Ratio of 72.94 and 54.86/100,000 lb, respectively, for the Northeast and South, and the difference of the Maternal Mortality Ratio for dissimilar race/color: 49.66 white women, black women (pretas + pardas) with 75.14, while black ("pretas") women reach 438.31/100,000 lb (DATASUS on 09/30/2011).

Considering the regional differences and that the highest percentage of black population in Brazil is concentrated in the north and northeast is evident that such regions need more attention to reduce maternal mortality.

The case of afro-Brazilian Alyne da Silva Pimentel demonstrated the lack of adequate care during childbirth and urges the Brazilian State to review the policy and programs for health care of women, especially in improving the management, staff training and the effective implementation of other policies such as the National Policy on Comprehensive Health of the Black Population (2006), which recognizes the existence of institutional racism, generator of diseases and injuries and diminishes years of the black population in the Brazilian health care services<sup>57</sup>.

**Restraint to access to information** - Brazilian state, by means of its Anvisa – National Agency for Sanitary Vigilance (Agência Nacional de Vigilância Sanitária) has issued norms that restrain the dissemination of information on sexual and reproductive health, especially concerning the use of misoprostol. This medicine has been increasingly controlled in the country since the 1980s. In 1998, Anvisa issued Regulation 344 /1998 (see Appendix) which limited the access to the drug only to hospital facilities, hence preventing access to misoprostol by people in drugstores. At present it attempts to control the flow of information on the drug

<sup>54</sup> A/66/254 Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 3 August 2011 [http://www.clam.org.br/publique/media/Anand\\_Grover\\_Report.pdf](http://www.clam.org.br/publique/media/Anand_Grover_Report.pdf)

<sup>55</sup> TANAKA, ACD'A. Dossiê mortalidade materna. [Maternal Mortality Dossier] Rede Nacional Feminista de Saúde, Direitos Sexuais e Direitos Reprodutivos, 2001, available in: <http://www.redesaude.org.br/publicacoes>.

<sup>56</sup> REDE FEMINISTA DE SAUDE. Jornal da Rede. [Network's bulletin], n. 29.p.13-15. Dez. 2011, available in [www.redesaude.org.br/publicacoes](http://www.redesaude.org.br/publicacoes).

<sup>57</sup> The impact of racism can be verified also in the production of violence against black women related to external causes such as homicides and suicides, analyzed in a study that describes the epidemiological data of DATASUS on the situation of fatal violence of women by race/color in all units of Brazilian federation in a historic series of 6 years (2003-2005/2006-2008). The study showed higher coefficients of fatal violence when comparing black women (74.1% in the first period and 77.8% in the second) with white women. Fernanda Bairos and Maria Luisa Pereira de Oliveira. Violência fatal, a vulnerabilidade das mulheres negras. [Deadly violence, the vulnerability of black women]. Paper presented at the Third International Seminar on Critics Routes of Violence. May, 2011, Porto Alegre.

at internet sites and social networks, by means of Resolutions No. 911/2006 and No.1050/2006, updated by Resolution 1534 of April, 2011 (see Appendix). Besides questioning the Anvisa competence to rule on such matter, we believe that violation of the right to information can not follow the existing restraints to access to the drug itself. Medicine abortion may be legally provided by the Brazilian health national system (SUS) in the cases of rape and serious risk to women's life<sup>1</sup>. If women have access to such health technology by diverse means, they must not be prevented from having access to information on how to safely use the drug to perform abortion (The Commission for Citizenship and Reproduction, CCR)<sup>58</sup>.

Scientific evidence of misoprostol effectiveness as an aborting method is one of the factors that lead women to adopt it. There are other reasons, such as the low cost and the privacy it allows for. Misoprostol and other factors that have replaced previous aggressive methods (like resorting to piercing objects) are linked to changes in the maternal deaths profile and in unsafe abortion data in the country.

The ability to make informed decisions is inscribed in the relation between autonomy and information: when the woman gains access to understanding transformations in her own body, she may decide in accordance with her reality. To ban information on abortion-related issues leads to probability of harm to youth's and women's reproductive health – and does not prevent abortion. Withholding information is thus not effective in reducing the number of abortions and, conversely, contributes to worsening conditions wherein decisions to resort to abortion are made.

**Feminization of HIV/AIDS epidemic and relation with violence** - The growth of the HIV epidemic and AIDS among women and young women have been verified by the Brazilian sanitary agencies. According to the Ministry of Health<sup>59</sup>, from 1980 until June 2011, Brazil has 608,230 registered cases of AIDS. In 2010, 34,218 disease cases were reported and the incidence rate of AIDS in Brazil was 17.9 cases per 100 000 inhabitants. Although men are still the majority of patients, this difference has decreased over the years. Dividing the number of AIDS cases among women and case in men, according to population, one can observe that: in 1989, the sex ratio was about 6 AIDS cases among males for each 1 case in females. In 2010, reached 1.7 case in men for each 1 in women.

For both sexes, Aids is most incident on the age group of 25 to 49 years. However, between young people of 13-19 years the number of AIDS cases is higher among women, constituting what is called the feminization of the HIV and AIDS in Brazil. According to the health agencies, the unequal gender relations and the specific vulnerabilities of women and young women in particular, strongly influence this epidemiological profile. According to a study prepared by Gestos<sup>60</sup> in collaboration with the multicenter study, there is strong evidence that gender-based violence and HIV are articulated, imposing to women strong discriminations.

Despite the fact that there is an official national policy for combating violence against women coordinated by the Special Secretariat of Policies for Women in Brazil, in the states the policy is reproduced in the State plans to combat violence against women with different levels and quality. There are established state networks for confronting violence against women and reference centres to provide support to women victims of violence in pole municipalities, and through the creation of state councils for women and shelter homes for women victims in situations where their lives are threatened.

However the link between these services and the link with the policies to prevent or address the HIV and AIDS infection among women and girls still constitutes a huge gap in the country. The same is true in

<sup>58</sup> MISOPROSTOL AND VIOLATION OF THE RIGHT TO HEALTH AND THE RIGHT TO INFORMATION ON SEXUAL AND REPRODUCTIVE HEALTH. Periodic universal review, cycle 2, June 2012. The Commission for Citizenship and Reproduction/CCR [Comissão de Cidadania e Reprodução], SP, Brazil, 2011.

<sup>59</sup> BRASIL. Ministério da Saúde. Boletim Epidemiológico 2011. Aids no Brasil. [2011 Epidemiologic Bulletin. Aids in Brazil]. <http://www.aids.gov.br/pagina/aids-no-brasil>

<sup>60</sup> Violência contra a mulher e feminização do HIV/Aids no Mercosul. Estudo multicêntrico internacional. [Violence against women and feminization of HIV/Aids in Mercosul. International Multicenter Study]. Brasil – Gestos Soropositividade, Comunicação e Gênero. Uruguai, Argentina, Brasil and Chile (2010).

relation to the networks in place including, shelter homes, reference centres, specialised outpatient services, and Councils of Guardians. The notification of cases of violence, that is now mandatory and under the terms of the Maria da Penha Law, and so are alternative services to handle the aggressor. The quality of the care and assistance in the shelters is being openly questioned. The regime of reclusion imposed transforms the woman from victim into accused and that has led to a very low rate of user-adherence to the service in all spheres. In this space the discussion related to HIV and AIDS is still a tabu and is strongly missed, except in few capitals.

In general in Brazil there are no proposals for actions prior to the violence being committed (prevention, women's rights and citizenship) and most of the services are only implanted in state capitals so that access to them is limited for many of the women who really need them. Only recently, due the efforts done by NGOs, researches are starting to be implemented to analyse the level of connection between violence against women (all types of violence) as a factor that make women more vulnerable to HIV and AIDS.

Another research under the Women Won't Wait Campaign<sup>61</sup> demonstrated the insufficiency and even failure of public policies on the relationship between HIV and violence against women (VAW). According to the study that sought data in 11 Brazilian states, although cases of violence against women are compulsory notification in Brazil, there are no records or data on access of women victims of violence to health services and who have received Prophylaxis Post Exposure (PEP) or Contraception/Emergency Contraception (EC), or even those who received legal advice or psychological counseling.

The lack of an official national system for registering and unify the cases of violence against women is a problem to be addressed. While there is studies that approach the relationship between HIV and Violence Against Women, according to the Ministry of Health, the Secretariat of Public Policies for Women and the Technical Women's Health Area, there are no official statistics to correlate HIV and VCM. The lack of data to support actions may justify the absence, in Brazil, of national campaign in the media linking HIV and CMV, and pointing out the violence as a risk factor for HIV.

The research showed the absence of data on training in schools that allow to recognize male and female students at risk or living with HIV or in situations of violence, or information about PEP protocols and EC because they are recent prevention technologies that are not yet in the general domain even by health personnel in Brazil.

Although there are, in Brazil, national HIV-related services that work with harm reduction, care violence, prevention of vertical transmission, treatment, care and support for AIDS, they act separately and with little interaction. What we see in practice are services that while promoting the care of persons living with HIV do not realize the diversity of needs of the injury of HIV epidemic and its relation to violence.

**Breast Cancer** - Breast cancer, despite being announced by the federal government as a priority in public health, keeps impacting the lives of Brazilian women in ascending order. In 2001, there were about 35,000 new cases per year. In 2011 were almost 52,000 new cases per year, corresponding to 52 cases per 100,000 women. It is the second leading cause of female deaths in the country. According to the National Cancer Institute (Instituto Nacional do Câncer)<sup>62</sup>, excluding the melanoma skin cancer that is more common among Brazilian women, breast cancer is the most prevalent on women in all regions, being the second leading cause in the north. The detection in time to save the lives of women and access to treatment are still challenges. Though there is adequate legislation and designed policies with the participation of the Feminist Health Network, an NGO specializing in women's health, the accomplishment of these plans faces barriers in the socioeconomic conditions of women, and in the access to and quality of care offered to them by the Unified Health System.

---

<sup>61</sup> Women Won't Wait Campaign. <http://www.womenwontwait.org>, coordinated in Brazil by Gestos, Coletivo Feminino Plural and Rede Feminista de Saúde in 2011.

<sup>62</sup> <http://www2.inca.gov.br/wps/wcm/connect/tiposdecancer/site/home/mama>

**Women deprived of liberty** - The situation of women deprived of liberty calls attention to the continuing serious violations of fundamental human rights in the Brazilian prison system. According to the Report of the Ministerial Working Group (Reformulation of Female Brazilian Prison System, 2008)<sup>63</sup> there was an increase of 135% of this population from 2000 to 2006, while the male prison population increased 53.36% in the same period.

In June 2007 women inmates accounted for around 25,909 of 308,000 inmates in the system, corresponding to 6.2% of the population incarcerated in prisons and police stations. In 2009, of the prison population of 473,000 prisoners in the country, 31,000 were women, according to the National Penitentiary Department, linked to the Ministry of Justice.

In recent years also become frequent complaints of sexual violence in prisons, as the case of child maintained for 20 days in jail with more than twenty men in Abaetetuba, state of Pará, in November 2007 where she suffered sexual violence.

In 2010, the Rapporteurship on the Right to Sexual and Reproductive Health of the Brazilian Platform on Economic, Social, Cultural and Environmental Rights, coordinated by the doctor José Maria de Oliveira Araujo, of the Feminist Health Network on Sexual and Reproductive Rights, has conducted in loco visits (missions) to female prisons in four states of three Brazilian regions - the states of Bahia and Pernambuco (Northeast), Pará (North) and Rio Grande do Sul (South), classifying as "...frightening the situation of women incarcerated in Brazil."

The Report<sup>64</sup> noted: "Torture, both physical and psychological, coupled with the lack of infrastructure, medical and psychological care and poor access to the justice system comprise a deplorable picture of violations". In all cells, according to the Rapporteurship there was a "punishment cell" where the inmates were not receiving medications such as antidepressants and even antiretroviral. An internal pregnant who reported having a dead fetus was not attended in the hospital, waiting for the spontaneous expulsion of the fetus. In Pará, women are imprisoned in steel containers under the sun of the northern region and only receive attention by screaming or beating in the cells. During the missions, the Rapporteurship noted women sleeping on the floor with the presence of rats, damaged toilets and no running water, litter the hallways, broken windows. Many have no lawyer and nor public defender, or fail to attend court hearings due to lack of transport.

Also according to this report, women deprived of liberty in Brazil have low schooling, low income, inserted in the informal labor market. Many were arrested carrying drugs at the request of partners, which suggests a situation of gender subordination. It was further observed that the situation of negligence with the health of HIV women becomes even worse by the overpopulation, precarious facilities, difficult access to prevention commodities and hygiene, violence, and health care deficit. The prison visits were defined from complaints received by social movements and feminist organizations.

**Sexual and reproductive rights of women in prisons** - The disrespect to sexual and reproductive rights and the dignity of women deprived of liberty remains also as a practice in the state of São Paulo, the most populous and developed of Brazil, where the use of handcuffs on women in labor at hospitals was reported in November 2011 by the Association of Judges for Democracy (AJD)<sup>65</sup> after numerous reports prepared by the women's movement. In Brazil, the use of handcuffs is only lawful in very exceptional cases and penalties

---

<sup>63</sup> Reformulação do Sistema Prisional Feminino Brasileiro. Grupo de Trabalho Ministerial. [Reformulation of the Brazilian Prison System. Ministerial Working Group]. Secretaria de Políticas para as Mulheres. Brasília, 2008.

<sup>64</sup> Relatorias de Direitos Humanos. [Human Rights Rapporteurships]. Plataforma Dhesca Brasil. In: <http://www.dhescbrasil.org.br/index.php>.

<sup>65</sup> Juízes pedem fim do uso de algemas em partos de detentas em São Paulo [Judges call for ending the use of handcuffs in deliveries by women inmates in Sao Paulo] (<http://www.redebrasilatual.com.br/temas/cidadania/2011/11/juizes-pede-fim-do-uso-de-algemas-em-partos-de-detentas-em-sao-paulo>).

must be applied in cases of abuse and physical and moral constraints of male or female prisoners, according to Binding Precedent (Súmula Vinculante) No. 11 of the Supreme Court.

In its position the Association of Judges for Democracy argues that: (a) handcuffing women during childbirth is undoubtedly affront to human dignity (Article 1 of the Constitution), disrespect to the moral integrity of women (art. 5 XLIX of the Constitution Federal) and offense to the special protection of maternity and childhood, established as a social right (article 6 of the Constitution), (b) constitutes noncompliance with the guarantee of appropriate assistance to woman in relation to delivery, set out in art. 12, § 2 of the UN Convention on the Political Rights of Women (1952), (c) also the newborn is undergone to discrimination on the basis of kinship, in violation of constitutional guarantees and rights of childhood protection (article 227 of Federal Constitution), subverts the constitutional logic of universal and egalitarian access to health services (Article 196 of the Federal Constitution), (e) represents flagrant noncompliance with the obligation of individualized care and differentiated treatment that pregnant women are entitled under Federal Law No. 10.048/2000 and (f) reveals clear violation of Article 143 of the Constitution of São Paulo, which determines the state penitentiary policy must comply with UN rules for the treatment of prisoners, among which stands out to Rule # 11 of "The Bangkok Rules", whereby the presence of prison staff and security during medical care shall observe the dignity of the female prisoner.

---

<sup>i</sup> Contributed to this report:

*Carmen Hein de Campos* (Cladem/Brasil - Themis Assessoria Jurídica e Estudos de Gênero), *Beatriz Galli* (IPAS), *Telia Negrão* (Rede Feminista de Saúde Direitos Sexuais e Direitos Reprodutivos – Coletivo Feminino Plural), *Alessandra Nilo* (Gestos Soropositividade Comunicação e Gênero – Laccaso), *Fernanda Tussi* (Coletivo Feminino Plural - Campanha Women Won't Wait), *Renata Jardim* (Coletivo Feminino Plural - Núcleo de Pesquisa sobre Corpo e Sexualidade da UFRGS), *Maria José Araújo* (Relatora de Saúde – Direitos Sexuais e Direitos Reprodutivos da Plataforma Dhesca Brasil), *Jussara Reis Prá* (Núcleo Interdisciplinar de Estudos sobre Mulher e Gênero da UFRGS), *Maria do Espírito Santa Tavares dos Santos* (Conselheira da Rede Feminista de Saúde no Conselho Nacional de Saúde), *Margareth Arilha* (Comissão de Cidadania e Reprodução), *Maria Luisa Pereira de Oliveira* (Rede Feminista de Saúde, Plataforma Dhesca Brasil - Maria Mulher Organização de Mulheres Negras), *Ingrid Leão* (Cladem/Brasil), *Thais Gava* (ECOS – Comunicação e Sexualidade), *Tamara Gonçalves* (Cladem/Brasil), *Thais Lapa* (Cladem/Brasil).