

BRAZIL

1. Discriminatory family code

Under the Civil Code (2003), the minimum **legal age of marriage** is 16 years for both women and men, on the condition of obtaining authorisation from the parents or a legal representative.¹ However, Article 1551 of the Civil Code states that, in the case of pregnancy, marriages will not be annulled on grounds of age.

In its most recent periodic reports to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2010), Brazil did not address the measures in place to address discrimination against women in all matters relating to marriage and the family.²

Existing public opinion data indicates that Brazilians overwhelmingly believe that a woman should be free to choose her own husband regardless of her family's wishes.³

The 2003 Civil Code (Section 1565) refers to family authority rather than paternal authority and grants equal rights over children and the household, in the interests of the couple and the children. The section of the Civil Code pertaining to **parental authority** in the case of divorce (Section 1583-1583) was amended in 2008 (by Law 11,698) to require "joint" or "shared" custody whenever possible.⁴

There is some evidence suggesting that customs govern parental authority. Women living in poverty and in rural areas face a culture that undermines women's intra-household decision-making power. There is still a vision of the woman being the care-giver at home and the husband being the bread-winner. These women have scarce control over resources, given that generally it is men who have remunerated jobs, making women dependent on and subordinated to their husbands and domestic partners.⁵

Brazilian women have the same **inheritance** rights as men under the Civil Code. In practice, however, some women in rural areas face discrimination from within the family, prohibiting their ownership of land via the transfer of titles to elder sons rather than widows.⁶

¹ Brazil (2003) Novo Código; CEDAW (2002), p, 191

² CEDAW (2011), CEDAW/C/BRA/Q7

³ Pew Research Center (2007), Question Q.44. (97% responded that a woman should be free to choose)

⁴ Brazil (2003)

⁵ Silva, Patricia (2014)

⁶ JICA (2008)

Under the Civil Code, women and men have equal rights after a **divorce**, including custody over children (Sections 1583-1590) and assets acquired during marriage (Sections 1672-1686).

2. Restricted physical integrity

In 2006, the government passed the “Maria da Penha” law that provided the first clear definition of **domestic violence**, tripled the severity of sentences for offenders and launched a \$1 billion, four-year campaign in 2007 to increase governmental capacity to deal with violence against women at all levels.⁷ Under the law, violence against women is “any action or omission based on gender which causes death, injury, physical, sexual, or psychological suffering or harm.”⁸

Designed and implemented by the Special Secretariat of Policies for Women of the Presidency of the Republic (SPM/PR), several measures have been taken to help enforce the Maria da Penha law, including: the creation of special courts for domestic and family violence against women; trainings for law enforcement, judiciaries, and other public officials on the implementation of the law; the establishment of an Observatory for Monitoring the Implementation and Enforcement of the Law.⁹ However, there has been a lack of funding for the latter that has left the Observatory without the means to perform its functions.¹⁰

According to the most recent alternative report to CEDAW (2012), the Maria da Penha law has been challenged by judges from its inception on the grounds that only women can be defined as victims of violence (both men and women can be perpetrators), and there have been two Supreme Court challenges to the law.¹¹

It is unclear whether domestic violence is routinely reported (or more routinely reported than before the law).

According to the National Justice Council, between September 2006 and March 2011, there were more than 300,000 procedures involving domestic violence against women, with more than 110,000 sentences. However, because this data does not take into account the criminal courts or reports that do not make it to court, the number of domestic violence incidences is actually much higher.¹²

Even before the enactment of the Maria da Penha law, according to 2006 survey results, domestic violence was met with social disapproval, with 85% declaring that a man is never justified in beating his wife.¹³

Rape is covered under the 2006 Maria da Penha law.¹⁴ The Penal Code defines rape as intimidation through violence or severe threat or the practice of any other obscene act.¹⁵ The perpetrator cannot

⁷ Law 11,340, the “Maria da Penha” law, enacted 7 Aug. 2006; CEPAL (2009); CEDAW (2010)

⁸ CEDAW (2010)

⁹ CEDAW (2010)

¹⁰ Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012), p. 16

¹¹ Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012), p. 5

¹² Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012), p. 6

¹³ World Values Survey (2006)

¹⁴ CEDAW (2010)

¹⁵ <http://www.impowr.org/content/current-legal-framework-rape-and-sexual-assault-brazil#sthash.5wew1zuO.dpuf>

escape prosecution by marrying the victim, according to a 2005 report sent to CEDAW.¹⁶ The Penal Code criminalises marital rape.¹⁷

Recent research shows that unwanted sex and pregnancies are highly prevalent among women living in poverty and extreme poverty, as they do not feel free to decide when to have sex, or feel obligated to, with their partners.¹⁸

The latest CEDAW report reveals that rates of violence against women remain high and on the rise: there was a “considerable increase in the number of reports on violence against women received by the Women’s Call Centre (number 180) between 2006 and 2009, from 12,664 to 40,857.”¹⁹ The increase is said to be related to a rise in the number of people that report this type of act, especially with the publicity of Women’s Call Centre (number 180).

According to the most recent reports, the lack of progress in this regard may be due to the same failures in implementation noted in the domestic violence section above. There have been many civil-society campaigns to address the issue, including the Full Stop to Violence against Women and Girls Initiative, aimed at “changing cultural standards that legitimize violence.”²⁰ In addition, state-led initiatives have also been created, including one in the state of Rio de Janeiro on 4 June 2013, where, in 2012 alone, nearly 5,000 rapes against women were reported. The initiative (Law 6,457) creates an “integrated information and monitoring system on violence against women” tasked with organising and analysing data on violence against women, as well as putting into practice actions and organisations to help women victims of abuse.²¹

In 2001, Brazil passed a bill outlawing **sexual harassment** and setting prison sentences of up to two years.²²

According to the most recent alternative report to CEDAW, the National Plan for Human Rights Education included “proposed actions based on principles of coexistence, in order to build a school free of prejudice, violence, sexual abuse, harassment, and corporal punishment.”²³ In May 2012, the National Council of Education, approved Resolution nº 1/2012, National Policies for Education in Human Rights, which should be followed by all systems of education and educational institutions across the country.

In order to combat gender stereotypes among men, *Instituto Promundo* and other partners, developed Program H, which addresses violence prevention and active fatherhood in promoting gender equality. The programme informs young men on sexual health and women’s sexuality and helps them to better understand their role in relationships, therefore encouraging them to look after themselves and others. Evaluations have shown positive changes in attitudes with regards to women and gender roles.²⁴

¹⁶ http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf, p. 8

¹⁷ Article 213 and Law nº12.015/2009

¹⁸ Silva, Patricia (2014)

¹⁹ CEDAW (2011), CEDAW/C/BRA/Q7, p. 2

²⁰ Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012), p. 6, fn 14

²¹ Ortiz, Fabiola (2013)

²² BBC News (2001)

²³ Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012)

²⁴ To learn more visit: <http://www.promundo.org.br/en/activities/activities-posts/program-h/>

There is no evidence to suggest that **female genital mutilation** is practised in Brazil.

More

Other forms of violence in Brazil include **trafficking**.²⁵ The last two CEDAW reports have included recommendations that the country adopt comprehensive anti-trafficking legislation.²⁶ In 2005, a law was enacted to combat this issue.²⁷

In Brazil, **abortion** is only available to save a woman's life, in cases of rape or incest²⁸ or in the case of anencephalus foetus (stillborn foetus).²⁹

3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 0.98.³⁰

There is no evidence to suggest that Brazil is a country of concern in relation to **missing women**.

More

In terms of **school enrolment**, there is virtually no gender gap when it comes to primary education, based on 2008-2012 data. Girls are in a better position than boys when it comes to secondary school participation and the literacy rate for youth (15-24 years).³¹

Boys are more vulnerable than girls when it comes to **child labour**, based on data from 2002 to 2012.³²

According to 2011 data, females aged 5-14 invest almost twice as long as male children of the same age in **household chores**.³³

4. Restricted resources and assets

Officially, Brazilian women have the same ownership rights as men, but inequalities persist. **Access to land** is legally guaranteed to women, and land can therefore be granted to a man or a woman irrespective of marital status. However, almost all the beneficiaries of the 1996 land reform were men. Since 2004, the government has undertaken a Land Reform initiative to give rural women the proper documentation they need to acquire access to land and credit, as lack of documentation is one barrier to women's land ownership.³⁴

Until recently, Brazil's Civil Code discriminated against married women and restricted their **access to non-land assets**. Men were responsible for administering joint property and also acted as their wife's

²⁵ Alternative Report to the Brazilian Report to CEDAW, 2006-2009 (2012)

²⁶ CEDAW (2011), CEDAW/C/BRA/Q7, p. 3

²⁷ Law 11.106/2005

²⁸ UN DESA (2013)

²⁹ Federal Supreme Court decision (2012)

³⁰ CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 28/03/2014)

³¹ UNICEF. http://www.unicef.org/infobycountry/brazil_statistics.html (accessed 31/03/2014)

³² UNICEF. http://www.unicef.org/infobycountry/brazil_statistics.html (accessed 31/03/2014)

³³ UCW-project. <http://www.ucw-project.org/Pages/Tables.aspx?id=1531> (accessed 09/04/2014)

³⁴ JICA (2008), pp. 51-52, 60-61

“representative”, which gave them the authority to administer their wife’s individual property. The 2003 Civil Code gives each spouse equal rights and obligations in this area. As a result of the Documentation Programme for the Rural Worker, begun in 2004, the number of women who own title to their land increased from 13% in 2003 to almost 56% in 2007; the programme provides the background documents that would increase their ability to obtain government services, such as birth certificates, maternity leave and land titles.³⁵

As regards **financial services**, by law Brazilian women have access to bank loans, but those in rural areas have more difficulty exercising this right.³⁶ In response, the government introduced a quota system in rural development financing programmes. However, loans are often granted to the head of the household, which effectively limits married women’s access to bank loans. Only 10.4% of participating women were issued loans. Brazil took steps to rectify this system by instituting a programme to issue micro-credit loans directly to rural women.³⁷ According to the latest financial data gathered by the World Bank, women have near parity when it comes to access to accounts at formal financial institutions (51% of females, 61% of males), while approximately 6% of both women and men have had loans from financial institutions in the past year.³⁸

Women have surpassed parity in microfinance access. According to the latest data analysed by Microfinance Information Exchange (2011, with 22 microfinance institutes reporting), women made up 56.73% of microfinance borrowers in Brazil.³⁹

Brazil’s *Bolsa Familia* antipoverty, direct cash transfer programme has successfully improved the decision-making authority of women in the household. This large programme, which assists 11 million households, distributes 94% of its payments directly to women. As a result, 48.8% of women surveyed by the government in 2008 said the programme increased their financial independence, while nearly 40% stated that their decision-making authority over the family’s finances had increased.⁴⁰

5. Restricted civil liberties

Most Brazilian women do not appear to experience restrictions in **access to public space**. There are no reported restrictions on women’s freedom of movement, although it is unclear whether women in any of the nearly 200 indigenous groups in Brazil face different restrictions based on traditions and customs.⁴¹ The 2003 Civil Code stipulates that spouses must decide together where they will live.⁴² This is a significant step forward: in the past, wives were obliged to live in their husbands’ place of residence. Recent research suggests that women in extreme poverty and rural areas are not free to leave their house without their partner’s permission.⁴³

³⁵ CEPAL (2009), p. 12; JICA (2008), p. 51

³⁶ JICA (2008), p. 58.

³⁷ CEPAL (2009), p. 12; JICA (2008), p. 50

³⁸ World Bank (2013)

³⁹ Microfinance Information Exchange (2013)

⁴⁰ CEPAL (2009), p. 5 fn 4

⁴¹ Minority Rights Group International (n.d.)

⁴² Brazil (2003)

⁴³ Silva, Patricia (2014)

In 2012, the NGO Bahia Gay Group reported 338 killings of people based on their sexuality or gender identity, 37% of whom were transvestite and 5% of whom were lesbian, with 68 further acts of violence against lesbians reported in that year.⁴⁴ Given that there is no national law prohibiting discrimination based on sexuality and gender identity, this data indicates that public space is not safe for all women.

Women in Brazil have full **political rights**. Brazilian law requires that 30% of candidates registered by each political party must be women – this includes the upper and lower houses of the national legislature, as well as the sub-national level.⁴⁵ In 2014, 8.6% of parliamentary seats were held by women.⁴⁶

At the municipal level, women have been slowly increasing their relative participation in the main election position. In 2001, 6% of the Brazilian mayors were women (335) and, in 2009, this percentage reached 9.2% (512).

In the area of **workplace rights**, Brazil has strong and generous maternity leave policies. All female workers in the private sector are entitled to 120 days of leave paid out at 100% of their current wages. Maternity leave benefits are paid directly by the employer, who is then reimbursed by Brazil's Social Security Institute. In addition, it is illegal in Brazil to discriminate against pregnant women or fire a pregnant woman from her job.⁴⁷

Domestic work is Brazilian women's main occupation and the main occupation of Black women – numbering 6.6 million in 2008.⁴⁸ Recently, the government has been addressing domestic workers' rights through a number of pieces of legislation, including (1) a law in 2006 giving domestic workers paid vacation, sick leave, and maternity leave⁴⁹ and (2) a law in 2013 setting an eight-hour work day, requiring overtime pay, and calling on employers to set up a fund to be used in case of dismissal, death, sickness, or other contingencies.⁵⁰

⁴⁴ US State Dept. (2013), p. 24

⁴⁵ The Quota Project (2013)

⁴⁶ OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

⁴⁷ International Labour Organization (2011)

⁴⁸ CEDAW (2010), p. 47

⁴⁹ CEDAW (2010)

⁵⁰ MDG Fund (2013)

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