



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Fifty-first session

13 February – 2 March 2012

Concluding observations of the Committee on the Elimination of Discrimination against Women

Brazil

1. The Committee considered the seventh periodic report of Brazil (CEDAW/C/BRA/7) at its 1026 and 1027 meetings, on 17 February 2012 (see CEDAW/C/SR.1026 and 1027). The Committee's list of issues and questions is contained in CEDAW/C/BRA/Q/7 and the responses are contained in CEDAW/C/BRA/Q/7/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for its seventh periodic report, although its content did not refer to the implementation of the previous concluding observations of the Committee. It expresses as well its appreciation to the State party for its written replies to the list of issues and questions raised by its pre-session working group; however, it regrets the delay in their submission

3. The Committee commends the State party for its high-level delegation, headed by Ms. Eleonora Menicucci de Oliveira, Minister of the Secretariat for Women's Policies of the Presidency of the Republic, which included representatives from various Ministries, the National Council of Women's Rights, the National Forum of Black Women and women parliamentarians. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee and the further clarification provided in response to the questions posed orally by the Committee.

B. Positive Aspects

4. The Committee welcomes the election of, Ms. Dilma Rousseff, as the first female president of Brazil, in October 2010 and appreciates the appointment of 10 women ministers.

5. The Committee notes with appreciation the sustained engagement of the State party in full participatory processes to define its priorities towards the advancement of women's

rights and gender equality, such as the Third National Conference for Policies for Women, held on December 2011.

6. The Committee welcomes the implementation, within the framework of the Plan Brazil without Misery, of the program *Bolsa Familia* which has benefited a large number of families throughout the territory of the State party.

7. The Committee notes the role of the Supreme Court in guaranteeing the rights of men and women in the implementation of the Maria da Penha Law and on its decision on equal rights and obligations for same-sex couples.

8. The Committee expresses its appreciation to the State party for having submitted within the stipulated timeframe information with respect to the implementation of the views adopted by the Committee regarding the case of Alyne Pimentel (CEDAW/C/46/D/18/2008).

9. The Committee welcomes the ratification by the State party of the following international human rights treaties since the last consideration of a State party report in July 2007:

a) The Optional Protocol I and the Optional Protocol II (aiming at the abolition of the death penalty) to the International Covenant on Civil and Political Rights, in 2009;

b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2008; and;

c) The International Convention for the Protection of All Persons from Enforced Disappearances, in 2010

C. Principal areas of concern and recommendations

10. **The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on the actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, to the National Congress and to the judiciary, so as to ensure their full implementation.**

National Congress

11. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its National Congress, in line with its procedures and where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the next reporting process under the Convention.**

Constitutional framework

12. The Committee notes with concern that article 7 (sole paragraph) of the Constitution discriminate against domestic workers as it grants to this category of workers only 9 out of 34 rights enshrined therein and granted to other categories of workers. It is concerned about

the negative impact of this provision in the advancement towards the elimination of discrimination against women, as women represent the vast majority of domestic workers in the country, in particular Afro-descendent women and girls, who often suffer from multiple forms of discrimination.

13. The Committee recommends that the State party:

a) Expedite the works of the Special Commission entrusted to prepare an opinion of the Constitutional amendment proposal No. 478/2010, which anticipates the abrogation of the sole paragraph of article 7, in order to grant the full range of rights provided in the Constitution to women domestic workers;

b) Adopt a regulatory legislative framework to protect the rights of domestic workers, in particular Afro-descendent women; and

c) Take appropriate measures to ensure substantive equality to women domestic workers as well as measures aimed at eliminating the multiple forms of discrimination against Afro-descendent women domestic workers.

National machinery for the advancement of women

14. The Committee welcomes that the Secretariat for Women's Policies (SPM) has been integrated as one of the essential entities of the Office of the President of the Republic, and that it has extended its presence to 23 states and 400 municipalities. However, it expresses its concern with respect to existing inconsistencies between the resources effectively released to the Secretariat, which are significantly lower, and the resource allocations foreseen in the Budget Law (LOA). It further notes with concern the negative impact that such inconsistencies have in the adequate execution of the SPM responsibilities as the national machinery for the advancement of women. The Committee is also concerned that the capacity and resources of the SPM have not been adequately strengthened, especially at the municipal level, to ensure effective coordination among different institutions at various levels, in the formulation and implementation of the Municipal Women's policies plans and on the prioritization of women's rights in social and economic development strategies.

15. The Committee, recalling its General Recommendation No. 6 (1988) and the guidance provided in the Beijing Platform for Action, in particular regarding the necessary conditions for the effective functioning of national mechanisms, recommends that the State party:

a) Revise existing funding allocation policies with the view to ensure that there are no inconsistencies between the financial resources allocated in the Budget Law (LOA) and the resources effectively released to the Secretariat for Women's Policies to adequately execute its mandate;

b) Strengthen the capacity of the Secretariat for Women's Policies, at the federal, state and municipal levels, by providing it with sufficient human, technical and financial resources, to increase its effectiveness in formulating, executing, providing advice on, coordinating and overseeing the preparation and implementation of laws and policy measures, at all levels, in the field of gender equality and in mainstreaming gender perspectives in all laws and policies, including in policies aimed at realizing equality among different groups of its population; and

c) Take further efforts to extend the setting up of women's policies and institutional mechanisms in all 27 states, the federal district and municipalities in order to ensure the effective implementation and coordination of policies aimed at achieving substantive gender equality.

Temporary Special Measures

16. The Committee acknowledges that the State party has adopted temporary special measures aimed largely at achieving equality among its population, such as quotas based on race and ethnicity to increase the number of Afro-descendent and indigenous students enrolled in higher education programmes, such as those related to science and technology. Even though women might benefit from these measures, the Committee is concerned about the lack of a specific assessment on their impact on women, which would allow an evaluation on how effectively these measures have contributed to the acceleration of substantive equality of women. It is further concerned at the apparent inefficiency in the use of temporary special measures targeting different groups of women.

17. The Committee recommends that the State party take further steps to expand the understanding of the concept of temporary special measures and the use of these measures, in accordance with article 4 (1) of the Convention and general recommendation 25 (2004), as part of a necessary strategy towards the achievement of women's substantive equality, in particular for women with disabilities, Afro-descendent, indigenous and rural women, in fields such as political participation, health, education and employment.

Violence against Women

18. The Committee appreciates that the Supreme Court pronounced itself on the legal controversies around the constitutionality of the Maria da Penha Law on domestic and family violence against women (Law 11340). However, given the resistance from various sectors of the judiciary to apply this law as well as the Federal and decentralized configuration of the State party, the Committee is concerned about the compliance with both the verdicts of the Supreme Court and the Maria da Penha Law by judges at the local level. It is also concerned about the lack of expertise within the judiciary on domestic and family violence cases. It is further concerned about the lack of accurate and consistent data on violence against women. The Committee acknowledges as well the comprehensiveness of the measures contained in the National Pact to Combat Violence against Women aimed at preventing and combating violence against women. However, it is concerned that the full implementation of the National Plan might be at stake due to the lack of adequate capacity and financial resources to implement the National Plan's actions in the areas of education, health and social assistance.

19. The Committee urges the State party to:

a) Provide systematic training to judges, prosecutors and lawyers on women's rights and violence against women as well as on the Maria da Penha Law and on its constitutionality, as stated on the verdicts of the Supreme Court;

b) Strengthen its judicial system to ensure that women, in particular disadvantaged groups have effective access to justice and facilitate women's access to justice by increasing both the number of courts dealing with, and judges with expertise in domestic and family violence cases;

c) Improve its system of regular collection and analysis of statistical data aimed at assessing and monitoring the impact of the Maria da Penha Law; and

d) Provide all entities which participate in the implementation of the National Plan to Combat Violence against Women with substantial human, technical and financial resources, including for the establishment of shelters for women victims of violence.

Trafficking and exploitation of prostitution

20. While taking note of the State party initiatives to address trafficking in persons such as the establishment, in March 2011, of a parliamentary inquiry commission (CPI) to investigate the causes and consequences of internal and international trafficking in Brazil and the preparation of a Second National Plan to Combat Human Trafficking, the Committee is concerned at the lack of information about the extent of the phenomenon of trafficking in women and girls. It is also concerned about the lack of a comprehensive and concerted approach to combat trafficking in persons. It regrets that the State party has not yet adopted a comprehensive anti-trafficking legislation as recommended by the Committee in its previous concluding observations (CEDAW/C/BRA/CO/6, para. 24). It is particularly concerned at information received stating that women and girls are exploited for the purposes of prostitution and employment in some regions where large development projects are being implemented and about the sexual exploitation of women and girls in touristic zones in the northeast of the country.

21. **The Committee recommends that the State party:**

a) **Consider adopting a comprehensive law against trafficking in persons, in line with the Palermo Protocol, in order to fully implement article 6 of the Convention, and to ensure that perpetrators are prosecuted and punished and victims adequately protected and assisted as previously recommended by the Committee (CEDAW/C/BRA/CO/6, para. 24);**

b) **Take into consideration the results of the Parliamentary Commission of Inquiry to revise and further adopt and implement the Second National Plan to Combat Human Trafficking (2nd II PNETP) and, design and implement within its framework a comprehensive strategy aimed at combating and preventing the exploitation of prostitution and sex tourism in the State party;**

c) **Establish a unified national mechanism to coordinate efforts towards preventing and combating internal and international trafficking in persons and protecting victims;**

d) **Provide information and training on how to identify and deal with victims of trafficking and on anti-trafficking provisions in the domestic law to the judiciary, law enforcement officials, border guards and social workers;**

e) **Ensure systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and on the exploitation of women in prostitution, and conduct comparative studies on trafficking and prostitution and address their root causes, in order to eliminate the risk of girls and women falling victim to sexual exploitation and trafficking; and;**

f) **Strengthen its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and the adoption of joint measures with respect to the prosecution and punishment of traffickers.**

Participation in political and public life

22. The Committee takes note of the efforts of the State party aimed at increasing the participation in political and public life of women, such as the adoption of Law No. 12034/2009 which requires that political parties maintain a minimum of 30% and a maximum of 70% representation of women or men in their candidate lists and the launch of the permanent campaign “More Women in Power” in 2008. However, it regrets that the persistence of patriarchal attitudes and stereotypes as well as the lack of mechanisms to ensure the implementation of adopted temporary special measures, continue to impede women’s participation in parliament and in decision-making positions at the state and

municipal levels of the public administration. It is further concerned at the low representation of women in the highest instances of the Judiciary and in top managerial positions in the private sector, despite the increasing number of women with judicial careers as well as the increasing number of women who participate in the labour market.

23. **The Committee calls upon the State party to:**

a) **Strengthen its efforts to amend or adopt legislation aiming at increasing the *de facto* participation of women in political life and pursue sustained policies aimed at the promotion of women's full and equal participation in decision-making as a democratic requirement in all areas of public, political and professional life, by utilizing the Committee's general recommendation No. 23 (1997) on women in public life;**

b) **Adopt and ensure the implementation of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), in order to accelerate women's full and equal participation in public and political life, in particular with respect to disadvantaged groups of women, such as Afro-descendent and indigenous women, and women with disabilities; and**

c) **Carry out awareness-raising campaigns targeting both men and women aimed at eliminating patriarchal attitudes and stereotypes regarding roles for men and women and at highlighting the importance of women's full and equal participation in political and public life and in decision-making positions in the public and private sectors and in all fields.**

Education

24. While taking note of the information provided by the State party, which indicates that Brazilian women are more educated than men and that illiteracy rates among women are lower than among men, the Committee is concerned about the persistent inequalities in the access to education for women and girls based on their race, ethnicity and socio-economic background. It also takes note of the various programmes aiming at bringing a gender perspective to the field of education, such as the Women and Science Program, which targets students from secondary and higher education. However, it regrets, inter alia, the lack of detailed sex-disaggregated data on the rates of enrolment and completion of primary school as well as information on the sex-segregation of the curricula, in particular in technological education in higher levels; programmes in place, aimed at decreasing the illiteracy rate of women over 15 years (9.8%); and the absence of information related to leading causes of school dropout of girls, such as domestic work and teenage pregnancies. The Committee is also concerned about the reported vulnerability of adolescent girls to various forms of violence, including trafficking for sexual exploitation.

25. **The Committee recommends that the State party:**

a) **Take steps to overcome the inequalities in the access to education for girls and women based on their race, ethnicity and socio-economic background with the view to ensure them *de facto* equal access to all levels of education;**

b) **Undertake specific measures to improve the literacy rate of women over 15 years and/or aiming at encouraging them to complete their basic education through for example the adoption of comprehensive programs of formal and non-formal education and vocational training;**

c) **Introduce measures to change traditional norms and attitudes as well as school organization practices that militate against girls free choice to pursue non-traditional areas of studies, particularly in technological areas;**

d) Implement measures in the National Plan to Combat Violence against Women which target the Ministry of Education and Culture as well as awareness raising campaigns contemplated for schools with a view to enhancing the possibility of adolescent girls completing their formal education; and

e) Conduct a revision of its data on education and provide, in its next periodic report, accurate data and updated information on the measures taken to eliminate discrimination against women in the field of education and results achieved, including on the sex-segregation of the curricula;

Employment

26. The Committee notes the establishment, in 2008, of the Commission for Equal Opportunities on the basis of Gender, Race, and Ethnic origin and for Persons with Disabilities and to Combat Discrimination by the Ministry of Labour and Employment. However, it notes with concern that despite the increased participation of women in the labour market, the achievement of equality between men and women in the field of employment remains a challenge in the State party. It is concerned that the wage gap between men and women fluctuates between 17% and 40% depending on the race, ethnicity, and education of women. It is also concerned that stereotypes related to gender and race contribute to the segregation of Afro-descendent and indigenous women into lower quality jobs. It is further concerned at the lack of information regarding measures to protect women from sexual harassment in the workplace as well as about the persistence of the exploitation of women and children as domestic workers.

27. The Committee recommends that the State party:

a) Prioritize the adoption of the Equality in the Workplace Bill (No. 6653/2009), which provides for the creation of mechanisms to prevent and prohibit discrimination against women in the field of employment;

b) Adopt effective measures in the formal labour market, including temporary special measures, to eliminate occupational segregation based on stereotypes related to gender, race and ethnicity; to narrow and close the wage gap between women and men; and to ensure the application of the principle of equal remuneration for work of equal value, and equal opportunities at work;

c) Include in its next periodic report legislative and other measures taken to protect women from sexual harassment in the workplace and to protect women's rights in the informal sector; and

d) Continue to take measures to improve the protection of domestic workers, including the ratification of the International Labor Convention No. 189 on Decent Work for Domestic Workers.

Health

28. The Committee acknowledges that the country's health services are under expansion and that the State party has implemented a number of measures aimed at reducing the maternal mortality rate, such as the establishment of the *Rede Cegonha* (Stork Network) programme (2011). However, it is concerned that this programme might not sufficiently address all causes of maternal mortality as it merely focuses on care services for pregnant women. It regrets that women who undergo a illegal abortions continue to face criminal sanctions in the State party and that women's enjoyment of sexual and reproductive health and rights is being jeopardized by a number of bills under consideration in the National Congress, such as Bill No. 478/2008 (*Estatuto do Nascituro*). The Committee is further concerned at the feminization of the HIV/AIDS infection.

29. **The Committee urges the State party to:**

a) **Continue its efforts aimed at enhancing women's access to health care and monitor and assess the implementation of the *Rede Cegonha* programme with the view to effectively reducing the maternal mortality rate, in particular within disadvantaged groups of women;**

b) **Expedite the review of its legislation criminalizing abortion in order to remove punitive provisions imposed on women, as previously recommended by the Committee (CEDAW/C/BRA/CO/6, para. 3); and collaborate with all relevant actors in order to discuss and analyze the impact of the *Estatuto do Nascituro* in further restricting the existing narrow grounds for women to undergo legal abortions, before it is adopted by the National Congress; and**

c) **Include detailed information in its next periodic report on the Integrated State Plans to Combat the Feminization of HIV/AIDS Epidemic and other STDS (reviewed in 2009) which aims at expanding women's access across the country to prevention, diagnostic and treatment in connection with sexually transmitted diseases and HIV/AIDS.**

Rural Women

30. The Committee takes note of various measures in place aimed at ensuring that rural women participate in and benefit from rural development, such as the Technical Assistance and Rural Extension Policy for Women (ATER) aimed at, inter alia, promoting agro-ecology and ecologically based production and, the Women's National Program for the Strengthening of Family Agriculture (PRONAF-Women) which provides women farmers with access to credit. However, it is concerned at the disadvantaged position of women in rural and remote areas, who often are the most affected by poverty and extreme poverty, face greater difficulties in obtaining access to health and social services and hardly ever participate in decision-making processes, due to patriarchal attitudes prevalent in rural communities. The Committee is further concerned about the impact of agro-industrial and development projects on rural women's living conditions and regrets the lack of information in this regard in the report.

31. **The Committee calls upon the State party to:**

a) **Take the necessary measures to ensure the participation of rural women in the designing and implementation of local development plans, in particular those which will have an impact in the economic structure and dynamics of their communities;**

b) **Ensure that rural women, and in particular women heads of households, participate in decision-making processes and have improved access to health, education, clean water and sanitation services, fertile land and income generating projects; and**

c) **Provide detailed information in its next periodic report on the impact on the living conditions of rural women of the major agro-industrial and development projects in place in the State party.**

Women in detention

32. The Committee expresses its concern about the significant increase in the number of women and girls in prison in the State party. It takes note that a large proportion of them have been imprisoned for committing drug trafficking related offences, in particular for having transported drugs (mules) at the request of their partners. The Committee is further concerned at the precarious conditions and overcrowding of some detention facilities; the difficulties faced by women prisoners' to access to justice, including the lack of

interpretation services for indigenous women; the increasing reports of sexual violence in the prisons; and, the lack of adequate health facilities and services for female inmates, in particular pregnant women.

33. **The Committee urges the State party to:**

a) **Take measures to reduce the number of women in conflict with the law, including through targeted prevention programmes aimed at addressing the causes of women's criminality;**

b) **Address the situation of women and girls in detention through the development of comprehensive gender-sensitive policies, strategies and programmes, aimed at facilitating their access to justice and ensuring the respect of their fair trial guarantees, in particular for indigenous women; and providing educational, rehabilitative and resettlement programmes for women and girls; and**

c) **Improve the conditions of women's detention facilities according to international standards, to solve the overcrowding difficulties in the prisons, guarantee separate residence facilities for men and women inmates; and ensure the provision of adequate health facilities and services, in particular for pregnant women.**

Data collection

34. The Committee is concerned that given the diverse composition of the population of the State party, the data provided in the report is exclusively disaggregated by sex. It notes that updated disaggregated data by, for example, sex, age, race, ethnicity and social-economic background are necessary for an accurate assessment of the situation of women, to determine whether they suffer from discrimination, for informed and targeted policymaking, and for the systematic monitoring and evaluation of progress achieved towards the realization of women's substantive equality in regard to all areas covered by the Convention.

35. **The Committee calls upon the State party to enhance the collection, analysis and dissemination of comprehensive data disaggregated by sex, age, race, ethnicity, location and social-economic background, and of measurable indicators to assess trends in the situation of women and progress towards the realization of women's substantive equality in all areas covered by the Convention. In this regard, it draws the State party's attention to the Committee's general recommendation No. 9 (1989) on statistical data concerning the situation of women and encourages the Secretariat for Women's Policies to enhance its collaboration with the Brazilian Institute of Geography and Statistics (IBGE) with the aim to generate, through the Brazilian Observatory for Gender Equality, gender sensitive indicators which could be used in the formulation, implementation, monitoring, evaluation and, if necessary, reviewing of women's and gender equality policies.**

Beijing Declaration and Platform for Action

36. **The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention and requests the State party to include information thereon in its next periodic report.**

Millennium Development Goals

37. **The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development**

Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

38. The Committee requests the wide dissemination in Brazil of the present concluding observations in order to make the people, government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure formal and substantive equality of women, as well as the further steps that are required in that regard. The Committee recommends that its concluding observations should also be disseminated at the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of these observations. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

39. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the Government of Brazil to consider ratifying the treaties to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Follow-up to concluding observations

40. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 21 and 29 above.

Preparation of next report

41. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, and to consult a variety of women's and human rights organizations during that phase.

42. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its eighth periodic report in February 2016.

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel Inhuman, Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

43. The Committee invites the State party to follow the “Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents” (HRI/MC/2006/3 and Corr.1), approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006. The treaty-specific reporting guidelines adopted by the Committee at its fortieth session, in January 2008, must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the updated common core document should not exceed 80 pages.
