

BRAZIL
UPR SOGIESC RECOMMENDATIONS

DATE AND TIME OF THE REVIEW: 14 NOVEMBER 2022, 14:30-18:00
DATE AND TIME OF THE ADOPTION OF THE REPORT: 18 NOVEMBER 2022,
16:00-18:00

A. SOGIESC Information

National Report

10. In addition, the government expanded the consultation process to state and municipal governments and institutions, by sending official letters to all federative states requesting contributions to the report. Since this was the first time that such an initiative took place, the 8 of a total of 27 federative units responded. The comments addressed issues related to migrants, refugees, children and adolescents, fight against forced labor and the rights of LGBT people, women, the elderly, people with disabilities, as well as traditional and indigenous peoples. Suggestions included broadening the information on the legal framework of topics such as combating violence against women.

72. Regarding the rights of LGBT people, the National Council of Justice published, in 2020, Resolution n. 348/2020, which “Establishes guidelines and procedures to be observed by the judicial system, in the criminal sphere, regarding the treatment given to lesbians, gays, bisexuals, transsexuals, transvestites or intersexes who are imprisoned, facing accusations, acting as defendants, condemned, deprived of liberty, serving alternative sentences or under electronic monitoring”.

73. Additionally, in 2021, guidelines were published within the scope of the Doing Justice Program, regarding the abovementioned resolution. Given the name “Guidelines on Resolution n. 348/2020: Procedures related to LGBTI people facing accusations, acting as defendants, condemned or deprived of liberty: recommendations to courts and judges toward the implementation of Resolution n. 348/2020, from the National Council of Justice”, the document addresses the premises for judicial action in cases involving LGBT people which are facing accusations, acting as defendants or condemned. It also establishes definitions and parameters to guide decision-making processes in the judiciary branch.

74. It is also worth highlighting the Federal Supreme Court 2019 decision that determined that, until the National Congress publishes a specific law, real or supposed discriminatory conduct against LGBT people shall be equal to the crimes foreseen in Law n. 7,716/2018. This law defines crimes arising from prejudice related to race or color. The decision also established that such conducts constitute aggravating circumstance to involuntary manslaughter, amounting to cruelty.

75. Finally, Resolution n. 423 from May 2021, which determined that public selections for the admission of public servants to all levels of the national judiciary power shall include issues related to LGBT phobia in the content to be assessed.

107. On HIV policies, in June 2021, the Political Declaration on HIV and AIDS was adopted in New York, in the opening of a High-Level Meeting on this subject. This declaration is the guiding document for the development and implementation of national HIV policies.

108. The focus of the Global Strategy passed by the UNAIDS Programme Coordinating Board, in March 2021, is to reduce inequalities, prioritizing people who are not able to access health services and fostering the removal of structural barriers that prevent access to these services. Brazil, as member of this Board, considered, during the preparation and approval of the new global strategy, that the strategic priorities and goals proposed in the document were grounded in scientific evidence and in line with the country's historic commitment with HIV policies.

109. Even with the Covid-19 pandemic, Brazil was able to keep offering antiretrovirals and preventative supplies against the new coronavirus without shortages of any kind. Brazil was also able to respond to requests of humanitarian donations of antiretrovirals and rapid tests to Latin America and Caribbean countries. In this regard, in 2020, Brazil donated antiretrovirals and rapid HIV tests to eight countries in its region. In 2021, ten countries received such donations. The Brazilian universal healthcare system was essential to make this possible.

110. In 2020 and 2021, during the Covid-19 pandemic, the distribution of HIV self-tests was expanded all over the country, with the goal of avoiding the interruption of HIV testing, on account of the mobility restrictions arising from the pandemic.

111. In 2020, 88% of the people living with HIV in the country were aware of their diagnosis. This was possible due to a widespread use of different testing strategies, including an expansion in the use of rapid tests, the offer of HIV peer testing, an allowance of testing by non-professionals that received training outside health facilities, the use of self-tests, as well as the introduction of HIV testing in primary health care. The government continued to invest in awareness campaigns.

112. Since the beginning of the pandemic, the Ministry of Health has monitored, monthly, strategic indicators that measure the pandemic impact on the assistance to people living with HIV. The results are available on <http://antigo.aids.gov.br/pt-br/painelcovidHIV>. Data from Medication Logistic Control System – which encompasses all people living with HIV in treatment in Brazil – show that the number of people in treatment in the country did not decrease.

Compilation of UN Information

39. On the basis of information from the Joint United Nations Programme on HIV/AIDS, the United Nations country team reported that, on average, people of African descent had lower life expectancy and that indigenous people experienced difficulties in accessing social services. Although cases and deaths related to HIV/AIDS had decreased between 2017 and 2019, people of African descent had been disproportionately affected by sexually transmitted infections, especially HIV.

5. Lesbian, gay, bisexual, transgender and intersex persons

64. On the basis of information from Associação Nacional de Travestis e Transexuais, the United Nations country team reported that transgender persons were exposed to violence and that most victims were women of African descent and young people aged 13 to 35.

Summary of Stakeholder's Information

23. Several submissions stated that there was a worsening in the situation of human rights defenders, with continued threats and murders against them. They also denounced attacks sponsored by the executive branch and the national congress through speeches and public demonstrations.⁴³ LGBTQI+ defenders were particularly vulnerable to violence because of both their activism and their identities. AI recalled that Brazil had the second-highest number of killings of human rights defenders in the world between 2015 and 2019. IACHR condemned the killing of a several human rights defenders in Brazil many of them linked to the defence of the environment, land and rural workers and urged Brazil to address the structural causes of these killings. JS10 recommended to provide civil society members, human rights defenders and journalists with a safe and secure environment to carry out their work.

46. JS1 and JS12 indicated that the government promoted the dismantling of the prevention and care policies and the discontinuation of programmes for people living with HIV/AIDS. It recommended to establish, expand and/or strengthen specialized outpatient clinics in the integral health of the transexual population.

49. JS12 underlined that the pandemic evidenced the country dependence on imported inputs and medicines, as a result of years of dismantling the pharmaceutical industry impacting the supply of medicines against HIV/AIDS and leprosy. JS1 indicated that LGBTQIA+ people in the prison system faced a lack of access to health care, in particular mental and sexual health, and people living with HIV/AIDS also faced discontinued use of antiretroviral drugs.

59. Despite having a reference protection law (the Maria da Penha law), cases of violence against women increased in Brazil and the absence of seriousness in the judicial processes. Several submissions highlighted the upsurge in domestic and sexual violence against women in recent years, in particular poor, trans and Afro-descent women, aggravated by the Covid19 pandemic. JS27 underlined the increase in violence against women running for politics. JS48 recommended to address violence against women in politics.

68. Many submissions expressed concern about the increase of violence in rural areas and killing of indigenous people in conflicts related to the land. Several submissions highlighted that the government officials made public discourses against indigenous peoples and therefore sponsored an increase in the invasion of indigenous territories by illegal miners, land grabbers, loggers and cattle ranchers thus increasing violence against indigenous peoples. JS29 recommended to sanction discrimination and incitement to violence on the grounds of sexual orientation, race, and ethnicity, including by public authorities.

Lesbian, gay, bisexual, transgender and intersex persons

75. Several submissions stated that there was a significant setback on the protection of the rights of LGBTI persons and governmental agencies in charge of LGBTI policies had been downgraded and even extinguished. Several submissions stated that there was an increase in the discourse of LGBTQI+phobic groups backed by the government rhetoric. Conexao G stated that lesbian, gay, bisexual, transgender and intersex individuals, especially black, indigenous and favela residents, were systematically treated as second-class citizens and faced violations of their right to access justice.

76. Several contributions stated that Brazil lead the ranking of LGBTQIA+ deaths in the world and highlighted the great vulnerability of Afro-descendant trans people. JS1 and JS37 recommended to ensure the full implementation of the Supreme Court of Brazil decision regarding the criminalization of homophobia and transphobia. JS1 recommended to elaborate

and implement a Standard Operational Plan to guide the assistance to the LGBTIA+ population and to establish guidelines for the recognition of hate crimes. AI recommended to establish a mechanism to protect LGBTI people against all forms of violence and discrimination. JS37 recommended to establish police stations specialized in crime based on sexual orientation and gender identity.

77. Several submissions noted that security agents were responsible for the violence against LGBTIA+ persons and recommended to create police protocols to address such violence and the correct care and approach of LGBTI+ people by public security agents. JS49 recommended to improve the reporting and systematization of cases of violence against the LGBTQIA+ community. According to Conexao G, a large majority of LGBTI people approached by police in the favelas who extorted them so they would not be taken to the police station where transgender women alleged they were raped by police officers and did to report such abuses for fear of retaliation.

78. JS1, JS15 and JS37 reported lack of legislation on gender identity and violence against LGBTI people, as well as resistance to recognize violence based on gender identity and sexual orientation. JS37 recommended to adopt a law against discrimination based on sexual orientation and gender identity.

79. JS1 recommended to include themes related to comprehensive sexual education and tolerance to diversity in the school curriculum and to confront LGBTphobia in education.

80. JS21 highlighted the situation of LGBTI people deprived of liberty and recommended to develop federal and state laws to regulate and standardize the criminal treatment of LGBTI people.

B. SOGIESC Advanced Questions for Brazil

BELGIUM

- Can the government of Brazil elaborate on the concrete steps taken to implement the decision of the Supreme Court to treat the discrimination of LGBTQI+-people in the same way as racism under Brazilian law?

C. Brazil's Working Group Session

D. Recommendations for Cycle IV (2022)

a. Remarks of States

- **Netherlands:** "The Netherlands is concerned about the environment for civil society, the rights of women and trans persons."

- **Mid-Session Remarks (Brazil):** “In another line of action, I emphasize that the government promotes employability and inclusion of LGBT people in the job market, in accordance with the guidelines of the National LGBT Employability Plan. Furthermore, we have been working to promote the addition of the federation unit to the national pact to combat LGBT phobic violence, this pact already has 18 participating states, between 2020-2021 there was a 31 reduction in the murder of trans people in our country.”

“For vulnerable groups, policies are developed to care for women, migrants, people of African descent, and LGBTI+ people.”

- **Sweden:** “At the same time, we remain concerned not least about the situation for human rights defenders, LGBTIQ persons, and conditions in youth detention centers.”
- **Romania:** “We commend Brazil’s progress and cooperation with UN special procedures and in fighting discrimination against LGBTIQ.”
- **Venezuela:** “We are also concerned by the increase in hate speech, racism, discrimination, and violence against LGBTI persons of African descent.”
- **Final Remarks (Brazil):** “We will continue fighting against all forms of discrimination, especially racism, and promote the full productive integration of groups that are still marginalized today such as the transgender population, the fight against violence against the LGBTI public, and the fight against torture are still a priority for this government.”

b. The following recommendations will be examined by Brazil, which will provide responses no later than the 52nd session of the Human Rights Council.

- **France:** Take all necessary measures to combat discrimination based on sexual orientation and gender identity. (6.67)
- **Canada:** Provide universal access to comprehensive sexual and reproductive health services to all groups, including women and girls, and the LGBTI community, without prejudice. (6.174)
- **Argentina:** Continue working to adopt the pertinent reforms to have a legal and public policy framework that allows for a more effective fight against racism, discrimination and structural violence against persons of African descent, with an intersectional perspective that includes LGBTIQ+ people and measures to prevent crimes due to

prejudice against the trans and transvestite population and travesticides and transfemicides. (6.68)

- **Chile:** Promote institutional policies that counteract discourses that incite violence for discriminatory reasons, with special emphasis on women, LGBTI people, Indigenous Peoples and Afro-descendants. (6.83)
- **Australia:** Take urgent measures to prevent and investigate attacks against human rights defenders including environmental activists, Indigenous Peoples, members of traditional communities, and LGBTI rights activists, and prosecute those involved. (6.124)
- **United States:** Adopt additional measures to improve the protection of women and girls in all their diversity, Indigenous persons, LGBTQI+ persons, journalists, human rights defenders, including environmental defenders, Afro-Brazilians, trade unionists, religious minorities, and persons with disabilities from violence and reprisal for exercising their rights to freedom of expression, peaceful assembly, association, and religion or belief. (6.125)
- **Canada:** Provide universal access to comprehensive sexual and reproductive health services to all groups, including women and girls, and the LGBTI community, without prejudice. (6.174)
- **New Zealand:** Strengthen and implement existing policies to eliminate violence and discrimination against women and girls, human rights defenders, and LGBTQI+ communities, including through police protocols to address LGBTQI+-phobic violence. (6.279)
- **Norway:** Ensure a rights-based approach by law enforcement agents towards the LGBTIQ population, including by creating police protocols that specifically address violence. (6.280)
- **Mexico:** Adopt action protocols to ensure that security agents adequately and comprehensively address cases of violence against LGBTI persons. (6.281)
- **Iceland:** Create police protocols that address violence against LGBTQI+ persons. (6.282)
- **United Kingdom:** Develop tools to address discrimination against LGBTQI+ communities. (6.283)

- **United Kingdom:** Include women and girls and LGBTQI+ communities in planning for the 2023 Conference on Freedom of Religion or Belief. (6.284)
- **Finland:** Continue to develop legislation and policies at federal, state and municipal level to punish and prevent hate crimes and discrimination against the LGBTI+ population. (6.285)
- **Iceland:** Pass legislation to combat hate crimes against LGBTQI+ persons. (6.286)
- **Iceland:** Approve legislation to ensure the full implementation of the Federal Supreme Court decision criminalizing homophobia and transphobia. (7.1)
- **Malta:** Take steps to approve legislation to ensure full implementation of the Supreme Federal Court's decision regarding the criminalisation of homophobia and transphobia, providing for protective measures and investments in public facilities for comprehensive care and protection. (7.2)
- **Costa Rica:** Ensure equal access to justice for persons deprived of liberty, human rights defenders and people living in favelas, particularly trans and LGBTI persons and guarantee prompt and impartial investigations, especially in cases where abuse of authority was committed. (6.101)
- **Israel:** Bring forward and take steps to approve legislation to ensure criminalization of homophobia and transphobia. (6.26)
- **Venezuela:** Strengthen policies in favour of equality and the fight against discrimination and violence against LGBTI and persons of African descent. (6.25)
- **Russia:** Provide comprehensive support to the institution of the family in its traditional understanding. (6.128)

E. Recommendations for Cycle III (2017)

Take urgent measures to adopt legislation sanctioning discrimination and incitement to violence on the grounds of sexual orientation, and investigate and sanction cases of violence against lesbian, gay, bisexual, transgender, intersex and queer persons.	136.40	Accepted	The State justified its position as follows: Bills No. 7,582/2014 and 310/2014, under discussion at the National Congress, provide for the punishment for crimes of discrimination or prejudice based on sexual orientation or gender identity. (*A/HRC/36/11/Add.1*)	Argentina
---	--------	----------	---	-----------

Ensure that all hate crimes against lesbian, gay, bisexual, transgender and intersex persons are thoroughly investigated and prosecuted and seek to reduce hate by integrating human rights education into school curricula.	136.67	Accepted	The State justified its position as follows: The State justified its position as follows: See 136.39 and 136.40. On the integration of human rights education into school curricula, the recommendation is contemplated by two policies of the Brazilian government: the University Pact for Human Rights and the Project School that Protects. 136.39. Bill No. 6,424/2013, which imposes to the healthcare services the mandatory notification of cases of violence against LGBT people, is under discussion at the National Congress. 136.40. Bills No. 7,582/2014 and 310/2014, under discussion at the National Congress, provide for the punishment for crimes of discrimination or prejudice based on sexual orientation or gender identity. (*A/HRC/36/11/Add.1*)	Canada
Continue advancing the promotion of laws and initiatives that ban discrimination and incitement to violence on the grounds of sexual orientation and gender identity, in particular in the case of young persons and adolescents.	136.41	Accepted		Chile
Redouble the capacity-building efforts for all the security forces, aiming at avoiding practices of racial bias, or, directed, among others, against vulnerable minorities such as lesbian, gay, bisexual, transgender and intersex persons.	136.42	Accepted		Colombia
Continue taking measures to develop legislation and policies at federal, state and municipal level to punish and prevent hate crimes and discrimination against the lesbian, gay, bisexual, transgender and intersex population.	136.43	Accepted		Finland
Approve a specific law, in line with its international human rights obligations, that prohibits discrimination and incitement to violence based on sexual orientation and gender identity.	136.44	Accepted		Honduras
Continue protecting the natural family and marriage, formed by a husband and a wife, as the fundamental unit of society, as well as the unborn.	136.99	Noted		Holy See
Ensure conditions at detention centres comply with international and Brazilian law and that particular attention is given to conditions faced by vulnerable prisoners including pregnant women, children, and lesbian, gay, bisexual, transgender and intersex persons; and provide human rights training to officials in the legal and judicial system.	136.90	Accepted	The State justified its position as follows: A national policy to promote diversity in the criminal justice system is currently under development. In partnership with the United Nations, the federal government has hired specialized technical consulting services for this purpose. The first outcome is the document entitled "Postulates and Principles for the National Policy of Diversity in the Criminal Justice System," available on the Ministry of Justice's website. (*A/HRC/36/11/Add.1*)	Ireland
Follow measures taken at the national level to ensure that municipalities in Brazil develop specific policies to guarantee rights of lesbian, gay, bisexual, transgender and intersex people.	136.45	Accepted		Israel

Take measures to improve the situation of underreporting of cases of violence and discrimination against lesbian, gay, bisexual, transgender and intersex people, and develop policies to punish and prevent those actions.	136.66	Accepted		<i>Israel</i>
Ensure the effective implementation of measures to prevent, punish and eradicate all forms of violence and discrimination against women and lesbian, gay, bisexual, transgender and intersex persons.	136.196	Accepted		<i>Mexico</i>
Take necessary measures to address homophobic and transphobic crime, including by establishing a system for recording such crimes.	136.39	Accepted	The State justified its position as follows: Bill No. 6,424/2013, which imposes to the healthcare services the mandatory notification of cases of violence against LGBT people, is under discussion at the National Congress. (*A/HRC/36/11/Add.1*)	<i>Sweden</i>

F. Graphic Comparison Between Cycles (1–4)

G. [Video of Brazil's UPR Working Group Session](#)

H. SOGIESC Mentions During Brazil's UPR Outcome (Item 6 of the Agenda of the Human Rights Council)