

# 4th CYCLE OF THE UNIVERSAL PERIODIC REVIEW OF BRAZIL (2017-2022) SITUATION OF LGBTI PERSONS' HUMAN RIGHTS



## **Associação Brasileira de Lésbicas, Gays, Bissexuais, Travestis, Transexuais e Intersexos**

- The Brazilian Lesbian, Gay, Bisexual, Travestis, Transgender and Intersex Association (ABGLT) is a Brazilian organization that, since 1995, has as its objective and mission to promote actions that ensure citizenship and human rights for LGBT people, contributing to the construction of a democratic society in which no person is subjected to any form of discrimination, coercion, and violence, due to their sexual orientation and gender identity.

Telephone: +55 21 - 3617-0251

Email: [contato@abglt.org](mailto:contato@abglt.org)

Address: Av. Visconde do Rio Branco, 627, sobreloja, Centro Niterói, RJ 24020-000 - Brazil

Website: <https://www.abglt.org/>



**Associação Nacional de Travestis e Transexuais** - The National Association of Travestis and Transsexuals (ANTRA) is a national network that articulates 127 institutions throughout Brazil that develop actions to promote the citizenship of the Travestis and Transgender population. ANTRA's mission is: "Identify, Mobilize, Organize, Bring Together, Empower and Train Travestis and Transsexuals from the five regions of the country to build a national political framework to represent our population in the search for full citizenship and isonomy of rights."

Address: Associação Nacional de Travestis e Transexuais (ANTRA)

A/C Keila Simpson

Rua do Gravatá 25, 3 Andar, Nazaré, Salvador, BA 40040330 - Brazil

Email: [presidencia.antra@gmail.com](mailto:presidencia.antra@gmail.com)

Website: <https://antrabrasil.org/>

## 1. III Cycle recommendations on the human rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons

- 1.1. During its III UPR Cycle, Brazil received 12 UPR recommendations regarding the human rights of lesbian, gay, bisexual, trans and intersex persons. Although all the recommendations were accepted, none of them were fully implemented.
- 1.2. Nine of the recommendations received focused on the issue of **combating violence and discrimination against LGBTI persons**. Four of those recommendations (136.4,136.41,136.43, 136.44) focused on **adopt legislation** explicitly prohibiting violence and discrimination on the grounds of sexual orientation and gender identity while three of them focused on **effective recording, reporting and investigation of crimes** against this minority (136.66; 136.39;136.67).
- 1.3. Brazil also received recommendations on duly protecting the rights of LGBTI persons in prison (136.9) and to combat hate crimes against LGBTI person through including human rights in education curricula (136.67).
- 1.4. Not only the issues tackled at these recommendations were not implemented during the period of 2017-2022, in most of these areas there was a significant roll back on the protection of human rights of LGBTI persons.
- 1.5. In its Mid-Term report to the III Cycle, Brazil claims to be promoting some few advances on this area of recommendations. However, since the beginning of the current administration, the few advances on policies addressing LGBTI populations were not implemented by the government, but despite the government's attempt to undermine it. These advances took place due to policies implemented by civil society organizations and frequently through budget allocated through progressive parliament members, given the lack of funding dedicated to LGBTI policies by the Brazilian government.
- 1.6. Since the beginning of the administration, the governmental agencies in charge of LGBTI policies have been downgraded and even extinguished. While the Brazilian government claims to be monitoring the development of legislation on LGBTI human rights, the political coalition supporting the current administration is the main political player impeding any approval of these bills.

## 2. Violence and discrimination against LGBTI Persons

- 2.1. According to Grupo Gay da Bahia,<sup>1</sup> from 2017 to 2020, at least 1431 violent deaths motivated by LGBTIphobia took place in Brazil. Of these, 237 occurred in 2020: 76 transgender women and travestis, 51 gay men, 10 lesbians, 3 trans men and 3 bisexual people. Of the 136 people whose race/ethnicity could be verified, 54% were Afro-descendant. However, it should be noted that in 43.03% of the cases it was not possible to verify the race/ethnicity.
- 2.2. Brazil remains sadly undefeated in leading the violence and murders against travestis and transsexuals globally. The Trans Murder Monitoring (TMM) research project systematically monitors, collects, and analyzes reports of homicides of trans and gender-diverse people around the world<sup>1</sup>. Between 1 January 2008 and 30

<sup>1</sup> <https://antrabrazil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>

Updates of the results are published on TvT's website. Available at: <http://transrespect.org/en/trans-murdermonitoring/tmm-resources>

<https://antrabrazil.files.wordpress.com/2020/11/dossier-murders-and-violence-against-travestis-and-trans-people-in-brazil-2019.pdf> p. 55.

Institute on Applied Economic Research (IPEA). **Atlas da Violência**. 2019.

<[http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio\\_institucional/190605\\_atlas\\_da\\_violenca\\_2019.pdf](http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio_institucional/190605_atlas_da_violenca_2019.pdf)>, p. 58.

National Association of *Travestis* and Transsexuals (ANTRA). **Dossiê assassinatos e violência contra travestis e transexuais brasileiras em 2019**. 2019. <<https://antrabrazil.files.wordpress.com/2020/01/dossic3aa-dos-assassinatos-e-da-violc3aancia-contra-pessoas-trans-em-2019.pdf>>, p. 54-55

GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>

TODXS Núcleo - Research Center on LGBTI+ Public Policy. **Mapeando Violências Contra Pessoas LGBTI+ no Brasil - uma análise das denúncias do TODXS APP**. 2019. <<https://nucleo.todxs.org/wp-content/uploads/2019/05/relatorio-app-todxs.pdf>>

GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>

Gênero e Número. **Violência contra LGBTs+ nos contexto eleitoral e pós-eleitoral**. 2019.

<[http://violencialgbt.com.br/dados/190321\\_relatorio\\_LGBT\\_V1.pdf](http://violencialgbt.com.br/dados/190321_relatorio_LGBT_V1.pdf)>.

Brazilian LGBTI Association (ABGLT). **Pesquisa Nacional sobre o Ambiente Educacional no Brasil 2015: as experiências de adolescentes e jovens lésbicas, gays, bissexuais, travestis e transexuais em nossos ambientes educacionais**. 2016. <<https://static.congressoemfoco.uol.com.br/2016/08/IAE-Brasil-Web-3-1.pdf>>.

GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>

Organization of American States (OAS). Inter-American Commission on Human Rights (IACHR). **Recognition of the Rights of LGBTI Persons**. 2018. <<http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>>, p. 121

GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>

The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>

Gomes, Sávio Marcelino, Sousa, Luciana Maria Pereira de, Vasconcelos, Thaissa Machado, & Nagashima, Alynne Mendonça Saraiva. **O SUS fora do armário: concepções de gestores municipais de saúde sobre a população LGBT**. 2018. <<https://doi.org/10.1590/s0104-12902018180393>>

Estadão. **Apesar de políticas, população LGBT enfrenta dificuldades no acesso à saúde**. 2019.

<<https://emails.estadao.com.br/noticias/bem-estar,apesar-de-politicas-populacao-lgbt-enfrenta-dificuldades-no-acesso-a-saude.70002889423>>

The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>

The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>.

September 2019, 3314 trans people were murdered across the world, with 2608 cases in Latin America and 61% sex workers. Since the survey began, Brazil has been the country that reports the most murders of trans people in the world. On the occasion of the international Trans Day of Remembrance, on 20 November 2019, the team of TvT- Transrespect versus Transphobia Worldwide published the results of the Observatory of Trans people murdered around the world. The 2019 update revealed a total of 331 cases between 1 October 2018 and 30 September 2019 . Brazil remained the country with the highest number of murders of trans people in the world during this period, with 130 deaths<sup>2</sup>.

- 2.3. In the year 2021, according to ANTRA, there were 140 (one hundred forty) murders of transgender people, of which 135 (one hundred thirty-five) were travestis and transsexual women, and 05 (five) cases of trans men and transmasculine people.<sup>3</sup> Of this total, 78% were sex workers, which demonstrates how much travestis and transgender women sex workers are more exposed to transphobic violence on the streets. As for racial/ethnic composition, it was found that 81% of trans people murdered were Afro-descendant, confirming the greater vulnerability of Afro-descendant trans people. Besides, among the registered murders, at least 5 of the trans persons killed were human rights defenders in the exercise of their struggles against injustice, inequalities and human rights violations. All those 5 persons were Afro-descendant.
- 2.4. The year 2021 also revealed an increase of 141% compared to 2008, the year that the NGO Transgender Europe (TGEU) starts global monitoring and which presented the lowest number of reported cases, going from 58 murders in 2008 to 140 in 2021.
- 2.5. Also in 2019, a federal research institute published the "Atlas of Violence", also using data from this hotline named "Dial 100", from 2011 to 2017. **The report findings point to a sharp rise of violence against LGBTI persons during this period (2011-2017), including the increase of 127% in the number of killings of LGBTI persons between 2016 and 2017<sup>4</sup>.** In order to confirm this rise, the report cross the data with other databases, e.g. public health registers of violence, abuses, and sexual violence, resulting in the confirmation of this sudden rise of violence against LGBTI persons.
- 2.6. In 2019, the National Association of *Travestis* and Transsexuals conducted an online survey in order to assess LGBTI persons' feelings regarding their safety in Brazil.

The decree that institutes the program is available at: [http://escolacivicomilitar.mec.gov.br/images/pdf/legislacao/decreto\\_n10004\\_de\\_5\\_de\\_setembro\\_de\\_2019\\_dou\\_pecim.pdf](http://escolacivicomilitar.mec.gov.br/images/pdf/legislacao/decreto_n10004_de_5_de_setembro_de_2019_dou_pecim.pdf)

Ministério da Educação. Quinze estados e o Distrito Federal aderem ao modelo de escolas cívico-militares. October 1, 2019. Available at: <http://escolacivicomilitar.mec.gov.br/noticias-lista/62-quinze-estados-e-o-distrito-federal-aderem-ao-modelo-de-escolas-civico-militares>

Instituto Brasileiro Trans de Educação. As fronteiras da educação: a realidade dos estudantes trans no Brasil. 2019. Available at: <https://storage.googleapis.com/wzukusers/user-31335485/documents/5c50350f95db81ka6cN8/ibte2019.pdf>; & The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: [https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)

Grupo Gay da Bahia. Observatório de mortes violentas de LGBTI+ no Brasil - 2020. Available in: <https://grupogaydabahia.files.wordpress.com/2021/05/observatorio-de-mortes-violentas-de-lgbti-no-brasil-relatorio-2020.-acontece-lgbti-e-ggb.pdf>

The main finding of this survey was that **99,7% of LGBTI persons do not feel safe living in Brazil**<sup>5</sup>.

- 2.7. The IACHR emphasized that, in many cases, the victims were murdered after having suffered torture, inhumane or degrading treatment, or multiple forms of extreme humiliation and/or rape.
- 2.8. According to Race & Equality, there are various examples of extremely cruel murders, especially of trans women. In Brazil, in the city of Fortaleza, on the 15th of February of 2017, 42-year-old travesti Dandara dos Santos was brutally beaten on a public street in broad daylight by a group of cis men through kicking, punching, and stoning. She was then transported in a wheelbarrow to another place on the street, where she was killed with two gunshots. The aggressors recorded the entire scene and circulated the video of Dandara's torture and murder on the internet. The images show her covered in blood, as she was kicked by at least four men. On July 28, 2017, guests at a hotel in the city of São Gonçalo called the police when they noticed smoke and fire coming from one of the rooms. When police arrived, they found Jéssica Dimy unconscious on the floor of the room with burns over a large part of her body. The investigation revealed that Jéssica had been beaten, hung, and set on fire by a client. Jéssica was hospitalized for almost 5 months, until she died on December 7, 2017. The suspect fled the scene of the crime, but turned himself in to the authorities on August 14, 2017, and was arrested. In 2019, another murder of a travesti presented extremely cruel characteristics. Quelly da Silva, 35 years old, was murdered on the January 22 in the city of Campinas. The alleged killer murdered her after having sexual relations with the victim. The most shocking aspect of this case was that the murderer ripped out the victim's heart, put an image of a saint in its place and saved the bodily organ in his home. In addition, he stated: "He (sic) was a demon, I tore out his (sic) heart. That's right"<sup>6</sup>.
- 2.9. Besides, in 2018, the Supreme Court recognized the right of transgender people to change their name and gender in the civil registry without the need for legal action, surgery or medical evaluation. However, non-binary people still need to file a lawsuit to effect this change. In addition, the fact that there is no national law that guarantees this right and standardizes its recognition makes each state act differently, and there is no provision for the procedure to be free of charge in all states of Brazil. Many trans people also complain that, despite the existence of a norm of the National Council of Justice to regulate the attendance of notaries for the name and gender change procedure, many notaries refuse to do so.
- 2.10. **Recommendations**
  - 2.10.1. Standardize the fields and names on gender identity and sexual orientation, as well as the presumed motivation, used by professionals from the justice and public security system;
  - 2.10.2. Elaborate and implement a Standard Operational Plan to guide the assistance to the LGBTIA+ population and the investigations, establishing guidelines for the recognition of hate crimes, such as the severity of injuries, number of blows inflicted to the victim, among others;

- 2.10.3. Insertion of themes related to sexual and gender diversities in the training of all public security agents, such as police officers, clerks, etc,
- 2.10.4. Implement and strengthen channels for dialogue with civil society and social control, such as Dial 100 or other similar and specific instruments for the LGBTIA+ population, ombudsmen, channels for denunciation and rights councils;
- 2.10.5. Internalize organs such as the Public Prosecutor's Office, the Public Defender's Office and specialized police stations;
- 2.10.6. Collect and analyze data on violence, homicide attempts, murders and human rights violations against the transvestite population and other transgender people;
- 2.10.7. Combat impunity and underreporting of abuse and violence; and
- 2.10.8. Support and encourage the monitoring of violence through partnerships with civil society institutions working in the area.
- 2.10.9. To ensure that legislation, actions, and policies to protect women victims of violence, domestic, gender, and femicide policies guarantee the protection of travestis and trans women without any type of discrimination in relation to other women.
- 2.10.10. Guarantee the use of bathrooms according to the gender identity of trans people in social, public and private spaces;
- 2.10.11. Promote, together with child and adolescent protection agencies, policies and actions to support young LGBTI+ people who have been expelled from their homes and/or suffer domestic, physical and/or psychological violence
- 2.10.12. The creation of a space for the sheltering of the LGBTI+ population and a permanent house of passage for transgender people in situations of social vulnerability or who have been expelled from their homes;
- 2.10.13. Ensure shelter for transgender people according to their self-declared gender identities in the existing public shelters

### **3. Inexistence of legislative protection combating violence and discrimination on the grounds of sexual orientation,gender identity and expression or sex characteristics.**

- 3.1. Brazil has not adopted legislation or taken any necessary measures or policies to deal with violence and homophobic crimes and/or human rights violations, or specific policies to guarantee the rights of the LGBTQIA+ population. Few states and municipalities have protective laws that consider hate crimes against this population.
- 3.2. In 2019, the Brazilian Supreme Court (STF) ruled on the Direct Action of Unconstitutionality by Omission (*Ação Direta de Inconstitucionalidade por Omissão - ADO*) number 26. The decision stated that acts of homophobia and transphobia should be punished under the law that criminalizes racism, **until the parliament passes a specific law on the matter<sup>7</sup>.**

- 3.3. Despite the various recommendations on the adoption of legislation to combat violence against LGBTQIA+ people, and the understanding of the Federal Supreme Court on the omission of the State in this sense, **there are no records of specific legislation on the subject that has been processed until it reaches the General Plenary of the Federal Congress for voting, or proposed by the Brazilian Federal Government.**
- 3.4. The difficulties are many and, in a recent survey of this legislation, we found that in the current legislature from 2019 to 2022, there are 148 propositions that deal specifically with this population, 10 of them in the Senate and the rest in the Federal Chamber.
- 3.5. About the theme of violence we identified 73 of them, of the 48 being the most touched theme in propositions, 11 are against the rights of LGBTQIA+ persons, 06 of them revoke already conquered rights, especially council resolutions, but one of them, the PDL 4040/2019 of the Senator Marcos Rogério from DEM (RO) intends to suspend the legislative effects of the Direct Action of Unconstitutionality by Omission (ADO) nº 26 and of the Injunction Mandate (MI) nº 4. 733, on this path we also identified the PL 4370/2019 of deputy dr Jaziel do PL, which intends to establish compliance with the Principle of Legal Reservation in Criminal Law and in its Article 3 provides that only the conduct expressly typified in the Criminal Legislation will be considered criminal or infraction and adds in Single Paragraph that "the creation or expansion of criminal types will not be admitted by judicial means, the debate seems generic, but in its justification it is clear that it is an attack to LGBTQIA+ when defending that "We can, then, see that the LGBT segment is not protected by this judicial decision. Religious people, however, consider their freedom of expression more threatened by the decision".
- 3.6. Regarding the positive propositions that either typify or create norms that collaborate with the effectiveness of the Supreme Court's decision in progress at the time this report was written, 07 amend the Penal Code to include LGBTIaphobia as a hate crime, 04 create specific laws about it, 01 institute administrative sanctions, 09 include in existing legislation amendments about sexual orientation and gender identity, 02 alter paragraphs of the constitution to include sexual orientation and gender identity and 12 transform the decision of the Federal Supreme Court into law and 09 propose legislation of state actions with developments in the area of public security and justice to make their application effective.
- 3.7. Politicians aligned with conservative anti-LGBTI groups, members of the executive (including the Presidency and high level politicians), religious fundamentalists and a recent articulation with lesbian, gay and bisexual cisgender groups and anti-trans feminists have aligned themselves around a policy against trans rights, including the proposition of bills and several movements that intend to institutionalize LGBTIphobia, but especially transphobia. The anti-gender politics in Brazil assumes primarily the anti-trans agenda, against the rights of trans people or the lack of health care protocols for underage trans youth. Projects that intend to criminalize the use of neutral language, prohibit the free expression of gender and the self-declaration of gender of trans people have been common in recent years.

### 3.8. Recommendations:

- 3.8.1. Bring forward and take steps to approve legislation to ensure the full implementation of the STF's decision regarding the criminalization of homophobia and transphobia, providing for protective measures and investments in public facilities for comprehensive care and protection;
- 3.8.2. Enact legislation in line with STF ruling allowing legal gender recognition based on a simplified administrative procedure and on self-identification and ensure that the procedure is free of charges for persons in economic vulnerability
- 3.8.3. Ensure compliance with the STF decision on name and gender rectification for transgender persons, as well as the correct classification of the recognition of homotransphobia as a form of racism in the terms of the STF decision that criminalized discrimination based on sexual orientation and/or gender identity;
- 3.8.4. Establish mechanisms for investigation and administrative accountability of public agents who refuse to fill out data fields on LGBTQIA+ or commit other acts of rights violation;

## 4. Law enforcement agents, public security policies, lack of data and the rights of LGBTQIA+ persons in Brazil

- 4.1. According to Race and Equality, police action in Brazil assures not only racial domination, but also domination in regard to sexual orientation, gender identity, and other social markers. One very shocking case of police violence was that of Luana Barbosa, an Afro-descendant lesbian who was beaten to death by the police and that was cited in the report "Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers", presented during the Forty-seventh session of the HRC. To this day, the trial of his case has not been concluded. Another example is the one of an Afro-descendant travesti called Verônica Bolina, who was brutally beaten by a group of policemen in 2015.
- 4.2. We continue to notice **security agents being responsible for perpetrating violence against LGBTQIA+ people in Brazil**. There are no specific training and qualification protocols for security forces on how to attend and approach the LGBTQIA+ community, as well as no information system on violence or human rights violations in public security and justice agencies.
- 4.3. In a report concerning LGBTI violence published by the NGO TODXS, they emphasize that, among all the cases, **only 7,7% of the respondents declared that they had registered a complaint before the police or other competent authority**<sup>8</sup>. The organization explains that this high rate of underreport may be caused by a "fear of exposure of the LGBTI status - the ever-increasing distrust in institutions marked by a homophobic and sexist structuring, such as the police units" and "a continuous

institutional violence committed against these persons", that are likely to suffer a new aggression when reporting it to the police<sup>9</sup>.

- 4.4. Similarly, the report elaborated by the research group Gênero e Número shows that **only 6% of the victims registered a complaint before the police, and just 3% took judicial measures**, with regard to on-site assaults . Considering the online attacks, on social networks, only 2% registered complaints and no more than 1% took judicial measures<sup>10</sup>.
- 4.5. In response to the requests made to the Ministry of Justice, more specifically to the General Coordination of the National Information System of Public Safety, Prisons, Traceability of Arms and Ammunition, Genetic Material, Fingerprints and Drugs (SINESP), it was informed that there is a national database that provides for the collection of data from occurrence records of the 27 Federative Units, with the availability of registering the criminal typifications foreseen in Law 7.716/89.
- 4.6. The information systems also have the possibility of collecting the sexual orientation of those involved in the occurrence, with the following parameters: heterosexual, homosexual, bisexual, asexual, or not informed. No information regarding gender identity or social name was forwarded. However, the Ministry itself highlights the underreporting of information by victims and public security agents, resulting in the difficulty of mapping the crimes and systematizing the data.
- 4.7. It is also important to highlight that a universe composed of 27 elements was analyzed, each one corresponding to the federative units of Brazil; in broad terms, among the surveyed universe, only 20 federative units answered the questionnaire sent by the Access to Information Law (LAI), considering the date of 02/21/2022.
- 4.8. Besides, in a macroscopic view, it is possible to infer, through the answers given, that 15 states (55.6%) have records of gender identity and sexual orientation in the police report (Boletim de Ocorrência - B. O); 14 (51.90%) registered one or more occurrences of crimes against LGBTQIA+ people; and also 14 (51.90%) registered one or more cases typified as a crime of homotransphobia; 11 units of the federation (40.70%) registered presumed motivation in the police report; 10 (37.00%) have a database of crimes against LGBTQIA+ people, specifying the crimes committed; only 2 (7.4%) indicated they had a Standard Operational Procedure or similar instrument; 7 (25.90%) had done one or more trainings with security agents about sexual and gender diversity after the STF decision; 6 (22.20%) have, in their initial curricular matrix, a subject related to the theme of sexual or gender diversity for new agents; and 11.10% had cases in which a complaint was filed with the Public Prosecutor's Office (MP).
- 4.9. It is noteworthy that 15 (55.6%) federative units contain at least - relative to the space for identification of gender identity, sexual orientation, and social name - is composed of the police reports that have, at least, sexual orientation, gender identity, social name, or LGBTQIA+ indication. Thus, it can be seen that not all the states computed necessarily adopt the four pieces of information, in which only: 15 (55.60%) register only sexual orientation; 11 (40.70%) register gender identity; 7 (25.90%) have the social name field; and 2 (7.4%) adopt the indication of an LGBTQIA+ person as a general category.

4.10. In a general analysis, it is inferred that there is a common practice of requiring the information requester to look for another agency, which could inform about the topic, even if intercommunication between the agencies is possible, thus concluding that there is an idleness in the responses.

#### 4.11. **Recommendations:**

- 4.11.1. Create police protocols to address LGBTIphobic violence in Brazil, as well as for the correct care and approach of LGBTI+ people by public security agents;
- 4.11.2. Provide training to sensitize and educate public agents in all areas, but especially in public security, protection bodies for victims of violence and spaces for women victims of domestic violence and in state spaces on the importance of welcoming trans people respecting their specificities;
- 4.11.3. Promote and make available, in a unified manner, fields in SISNAN that make it possible to overcome the reality of the absence of data on LGBTIA+;
- 4.11.4. Include the fields "sexual orientation" and "gender identity" in the IBGE censuses and any others;

### 5. **Education**

- 5.1. The school environment continues to be one of the most violent for this community due to lgbtophobic bullying and attempts to prevent discussions about diversity, gender and sexuality in schools remain, coming from state representatives who insist on the fallacious "gender ideology", which intends to criminalize sexual and gender dissidences, as well as prevent the effective confrontation of the various forms of criminalization.
- 5.2. Regarding discrimination based on SOGIE in the access to education, in 2016 the Brazilian LGBTI Association (ABGLT) launched a comprehensive national report on the situation in the country. Among its main findings it points that 60% of the students feel unsafe in school due to their sexual orientation, while 43% feel the same because of their gender identity. **And 73% of students of diverse sexual orientation had been verbally abused and 27% suffered aggression. As to students of diverse gender identity and expression, 68% have been verbally abused and 25% suffered aggression. Moreover, the study indicates that 56% of LGBT students have been sexually abused in school<sup>11</sup>.** Even with these concerning numbers, there are no national guidelines for addressing sexual and gender diversity or comprehensive sexuality education in schools' curricula<sup>12</sup>
- 5.3. On 2019, the Brazilian federal government launched the National Program of Civic-Military Schools, creating a central program for fostering public military schools, with an institutional military culture that adopts the military principles of discipline and hierarchy.<sup>13</sup> In that year, there were already 203 schools of a military-civic model in Brazil.<sup>14</sup> Military discipline involves the use of conservative dress or even military uniforms, short hair for boys, and ponytails or buns for girls. According to

Race and Equality, these requirements block the empowerment of Black people through the embrace of their natural hairstyles and the empowerment of LGBTI people who expressed themselves through hairstyles not in line with cis-heteronormativity<sup>15</sup> .

- 5.4. In fact, many anti-LGBTI and anti-gender congressmen and senators have been articulating different **initiatives to detract public policy aimed to include LGBTI persons**.<sup>16</sup> In this sense, the IACHR draws attention to the removal of the terms "gender identity" and "sexual orientation" from the "Common National Curriculum Basis" (*Base Nacional Curricular*), a document responsible for establishing educational guidelines for all schools in the country. According to the Commission, the removal was provoked by "conservative political and religious sectors [that] are leading an initiative called 'Schools without Party' (*Escolas sem Partido*), promoting draft laws aimed at prohibiting certain subjects in the educational sphere, including gender and sexual orientation"<sup>17</sup>
- 5.5. Conservative religious movements have organized around educational guidelines in order to prevent important discussions on race, gender, and sexuality in schools. This has created an inhospitable environment for LGBTI persons in the educational system that affects primarily Black students and trans students, who have the highest dropout rates<sup>18</sup>
- 5.6. In the case of trans people, the situation is particularly dire. A more recent survey done by the Brazilian Institute for Trans People in Education (IBTE) in 2019, that exclusively targeted trans people observed that 50% of those interviewed had abandoned their studies at some moment in their lives<sup>19</sup>.
- 5.7. LGBTQIA+ youth, especially transgender people, with a focus on transfeminine people, have faced a hostile educational environment due to the lack of effective actions to confront LGBTphobic bullying among teachers, students, and administrative staff, and to ensure respect for the self-declared gender identity of transgender children and adolescents, as well as the respect and use of the social name, and the use of gender-segregated spaces according to the gender they identify as.
- 5.8. Cases of physical, psychological and symbolic violence accumulate within the school space without the municipal, state and federal education secretariats having taken measures to mitigate the impact of this violence or the development of diversity plans, including the mediation of conflicts between the school community and family members/parents/guardians who have LGBTIphobic attitudes and deny that their children can safely express their condition.
- 5.9. Trans teachers have faced moral harassment and institutional transphobia, with reports of discrimination that include religious harassment and anti trans fundamentalist discourse, and end up being removed from the classroom because they are considered a "bad influence" for students, especially in the basic education network.
- 5.10. **Recommendations:**
  - 5.10.1. Include themes related to comprehensive sexual education and tolerance to diversity in the school curriculum.

- 5.10.2. Evidence-based pedagogical materials (for teachers and students) need to be elaborated, made available and used in schools to promote respect for all, without distinction of any personal characteristic. This should occur in a transversal way, based on education in human rights
- 5.10.3. To confront LGBTphobia in education, campaigns need to be run in the media to raise awareness about the effects of discrimination and bullying against LGBT students.
- 5.10.4. Stimulate, in the municipal school curricula, a cross-cutting approach to the issue of gender diversity, the prevention of STDs / HIV / AIDS, the fight against LGBTIphobia and promote a culture of peace
- 5.10.5. Include the respect and use of the social name of travestis, transsexuals and other trans people in the school records of the municipal network and respect the use of bathrooms and uniforms according to their gender identity, regardless of the person's civil registration;
- 5.10.6. Formulate programs of conflict mediation, involving educators, students, parents and community, as a strategy to combat school violence, especially that motivated by prejudice or discrimination related to sexual orientation and gender
- 5.10.7. Guarantee the secularity of teaching in all public educational spheres, both in teaching content and in the physical premises of schools

## **6. Access to health**

- 6.1. The current administration has promoted dismantling of prevention and care policies for people living with HIV/AIDS, as well as the lack of specific campaigns that consider the increased risk faced by the LGBTQIA+ community. Specific health policies for transgender people face dismantling and discontinuity. It is estimated that about 70% of the services that were already insufficient for the needs of this population have been paralyzed.
- 6.2. LGBT persons also face additional challenges in access to health. The lack of awareness among health services professionals in Brazil is frequently a barrier in providing adequate health care. In 2018, the Federal University of Rio Grande do Norte published results of a research which concluded for a general lack of knowledge of health professionals on the main health demands of LGBT persons<sup>20</sup> Likewise, in 2019, one of the main newspapers in the country compiled several complaints of how homophobic and transphobic acts impede LGBT persons to have access to health. One of the complaints is of a woman who had her gynecologist's appointment interrupted because the doctor alleged that "he didn't know how to treat persons with homosexuality". The situation is likely to deteriorate under the current administration<sup>21</sup>. In 2019, the Ministry of Health excluded from its webpage a report on comprehensive healthcare for trans persons

and discontinued programmes to address HIV/AIDS, which disproportionately affects LGBT persons.

- 6.3. It is also worrying how the healthcare system is not prepared to receive LGBTI persons, causing particular problems for lesbian; bisexual; and transsexual women; travestis; transmasculine people; and transsexual men. The issue of genital mutilation of intersex persons is also largely invisible.
- 6.4. Despite the existence of a trans health policy by the public health system, which has faced scrapping and lack of funding, where at least 70% of its activities were interrupted by the pandemic and continue without a perspective of return, there are no protocols for psychological, hormonal and other care within public policies that guarantee the needs of trans young people under 18. Especially in relation to health, access to social and medical transition. This makes trans young people less optimistic about the future and leads them to seek procedures and use medication clandestinely and without proper monitoring, impacting especially on physical and mental health, as well as the life expectancy of these people. Foster parents and family members have been persecuted and denounced as if they were "violators of childhood" or "committing crimes" by welcoming the gender identity of their children when expressed during childhood.
- 6.5. Despite the fact that the WHO's ICD-11 came into effect in January 2022, up to this moment there hasn't been any action from the Ministry of Health to update the national guidelines gender identity-related health, and to replace diagnostic categories like ICD-10's "transsexualism" and "gender identity disorder of children" with "gender incongruence of adolescence and adulthood" and "gender incongruence of childhood".
- 6.6. The Brazilian Government also has not approved and regulated the procedures set out in resolution 2265/2019 of the Federal Council of Medicine that regulates health care for trans persons.
- 6.7. According to Race and Equality, Afro-descendant lesbian women and trans men who depend on the public healthcare system have been denouncing that discrimination during gynecological care leads many of them to feel fear of going to a doctor. In many cases, people develop cervical cancer because of this lack of attention.
- 6.8. In Brazil, Resolution 1.664 of 2003 of the Federal Medical Council deals with intersexuality, referring to the "technical norms necessary for the treatment of patients with anomalies in sexual differentiation."<sup>356</sup> The resolution defines 'anomalies in sexual differentiation' as "clinical situations known in the medical field as ambiguous genitals, genital ambiguity, intersex, true hermaphroditism, pseudo-hermaphroditism (masculine or feminine), gonadal dysgenesis, sex reversal, among others." In Article 2, the resolution guarantees the "proper definition of gender and treatment in a timely manner." According to intersex activists, an

emphasis on treatments to ‘define gender’ may lead to practices that they denounce as ‘genital mutilation.’

#### **6.9. Recommendations:**

- 6.9.1. Guarantee of no interruption in the dispensation of medicines used in the hormonization of transgender people and continuity of outpatient care provided in the transsexualization process, including the possibility of being done by home office;
- 6.9.2. Establish, expand and/or strengthen specialized outpatient clinics in the integral health of the trans population;
- 6.9.3. Guarantee the supply of medication for the hormonization of trans people in the public network;
- 6.9.4. Guarantee to trans men and transmasculines access to legal abortion in cases provided by law
- 6.9.5. Guarantee to trans men and transmasculines assistance to conception and contraception, prenatal care and assistance to delivery, postpartum and the newborn
- 6.9.6. Guarantee the continuity of treatment for LGBTI+ people living with HIV and the distribution of antiretroviral drugs;
- 6.9.7. To institute and implement a specific public policy that includes health care protocols, physical and mental, as well as reception that includes multi-professional teams, that considers the needs of trans youth, gender diverse children and adolescents, in health care units and those within the gender affirming process and that includes the needs and considers the challenges of parents and guardians of trans people;
- 6.9.8. End the genital mutilation of intersex people
- 6.9.9. Regulate the procedures set out in resolution 2265/2019 of the Federal Council of Medicine

### **7. LGBTQIA+ Persons in Prison**

7.1. LGBTQIA+ people in the prison system face a lack of access to health care, especially mental health, sexual health and those specific to gender transition for transgender people who have hormone treatment or other specific care interrupted upon entering the system. People living with HIV/AIDS also face discontinued use of antiretroviral drugs, and there are aggravations related to tuberculosis and other STIs. There has been no specific protocol or measures to confront the pandemic of COVID19 in prisons, and there is no data on how many LGBTQIA+ people have been victims of COVID19 and the context in which these deaths occurred.

#### **7.2. Recommendations:**

- 7.2.1. Guarantee the right to self-determination of gender and use of the name for travestis, transsexual women, trans men, transmasculine and other trans people, without any type of discrimination or shame,

regardless of bodily or surgical alterations, as well as without any type of differentiated treatment;

- 7.2.2. Create and/or update a specific database that indicates the existence of self-declared LGBTQIA+ people, respecting the name and gender identity of trans people, as well as their race, when entering the system and in prisons in a confidential and in order to safeguard the safety of these people, for the generation of data on the LGBTI+ population deprived of liberty;
- 7.2.3. Include and/or strengthen discussion on human rights, gender, race, and sexuality issues in training courses for prison system employees, with the effective participation of institutions and / or groups that work in the defense of LGBTI + people in the training process
- 7.2.4. Ensure access to the procedures provided for in the transsexualization process of the Unified Health System (SUS), as assigned by the health secretariats and specialized outpatient clinics, which consists mainly of hormonal treatment, but also the possibility that imprisoned trans people access hospital programs for surgical and clinical interventions, such as genital surgery, mastectomy, among others, as well as guarantee access to HIV treatment.

# Endnotes

1. Updates of the results are published on TvT's website. Available at: <http://transrespect.org/en/trans-murdermonitoring/tmm-resources>
2. <https://antrabrazil.files.wordpress.com/2020/11/dossier-murders-and-violence-against-travestis-and-trans-people-in-brazil-2019.pdf> p. 55.
3. <https://antrabrazil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>
4. Institute on Applied Economic Research (IPEA). **Atlas da Violência**. 2019. <[http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio\\_institucional/190605\\_atlas\\_da\\_violencia\\_2019.pdf](http://www.ipea.gov.br/portal/images/stories/PDFs/relatorio_institucional/190605_atlas_da_violencia_2019.pdf)>, p. 58.
5. National Association of *Travestis* and Transexuals (ANTRA). **Dossiê assassinatos e violência contra travestis e transexuais brasileiras em 2019**. 2019. <<https://antrabrazil.files.wordpress.com/2020/01/dossic3aa-dos-assassinatos-e-da-violc3aancia-contra-pessoas-trans-em-2019.pdf>>, p. 54-55
6. The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>.
7. GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>
8. TODXS Núcleo - Research Center on LGBTI+ Public Policy. **Mapeando Violências Contra Pessoas LGBTI+ no Brasil - uma análise das denúncias do TODXS APP**. 2019. <<https://nucleo.todxs.org/wp-content/uploads/2019/05/relatorio-app-todxs.pdf>>
9. GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>
10. Gênero e Número. **Violência contra LGBTs+ nos contexto eleitoral e pós-eleitoral**. 2019. <[http://violencialgbt.com.br/dados/190321\\_relatorio\\_LGBT\\_V1.pdf](http://violencialgbt.com.br/dados/190321_relatorio_LGBT_V1.pdf)>.
11. Brazilian LGBTI Association (ABGLT). **Pesquisa Nacional sobre o Ambiente Educacional no Brasil 2015: as experiências de adolescentes e jovens lésbicas, gays, bissexuais, travestis e transexuais em nossos ambientes educacionais**. 2016. <<https://static.congressoemfoco.uol.com.br/2016/08/IAE-Brasil-Web-3-1.pdf>>.
12. GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>
13. The decree that institutes the program is available at: [http://escolacivicomilitar.mec.gov.br/images/pdf/legislacao/decreto\\_n10004\\_de\\_5\\_de\\_setembro\\_de\\_2019\\_dou\\_pecim.pdf](http://escolacivicomilitar.mec.gov.br/images/pdf/legislacao/decreto_n10004_de_5_de_setembro_de_2019_dou_pecim.pdf)
14. Ministério da Educação. Quinze estados e o Distrito Federal aderem ao modelo de escolas cívico-militares. October 1, 2019. Available at: <http://escolacivicomilitar.mec.gov.br/noticias-lista/62-quinze-estados-e-o-distrito-federal-aderem-ao-modelo-de-escolas-civico-militares>
15. The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>
16. GALIL, Gabriel; LELIS, Rafael. Legal Opinion - Human Rights Situation of Lesbian, Gay, Bisexual Trans and Intersex Persons in Brazil. April 2020. Available at: <<https://humanrightslgbti.wixsite.com/lgbthumanrights/lgbti-human-rights-situation-in-bra>>
17. Organization of American States (OAS). Inter-American Commission on Human Rights (IACHR). **Recognition of the Rights of LGBTI Persons**. 2018. <<http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf>>, p. 121
18. The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>
19. Instituto Brasileiro Trans de Educação. As fronteiras da educação: a realidade dos estudantes trans no Brasil. 2019. Available at: <https://storage.googleapis.com/wzukusers/user-31335485/documents/5c50350f95db81ka6cN8/ibte2019.pdf>; & The International Institute on Race, Equality and Human Rights. Porto, Isaac. What is the color of the invisible? The human rights situation of Afro-LGBTI population in Brazil. Rio de Janeiro: The International Institute on Race, Equality and Human Rights, 2020. Available at: <[https://raceandequality.org/wp-content/uploads/2021/01/Dossier\\_Brazil\\_ENG.pdf](https://raceandequality.org/wp-content/uploads/2021/01/Dossier_Brazil_ENG.pdf)>
20. Gomes, Sávio Marcelino, Sousa, Luciana Maria Pereira de, Vasconcelos, Thaissa Machado, & Nagashima, Alynne Mendonça Saraiva. **O SUS fora do armário: concepções de gestores municipais de saúde sobre a população LGBT**. 2018. <<https://doi.org/10.1590/s0104-12902018180393>>
21. Estadão. **Apesar de políticas, população LGBT enfrenta dificuldades no acesso à saúde**. 2019. <<https://emails.estadao.com.br/noticias/bem-estar.apesar-de-politicas-populacao-lgbt-enfrenta-dificuldades-no-acesso-a-saude.70002889423>>