

Chacruna Handbook on Sexual Abuse Law

Brazil

1. General Situation

a. Changing of the Guard

On paper, addressing sexual violence and abuse is a priority for the Brazilian government. In 2006, the government passed the [widely-praised law](#) 11340, the [Maria da Penha Law](#), named after a human rights activist left paralyzed by her violent husband, which criminalized physical, psychological, and sexual violence against women and defamation of victims, called for the establishment of special courts and shelters for women survivors, and implemented stricter sentences for offenders. In 2014, the government also passed a series of [new Constitutional provisions](#) addressing violence against women. In 2015 it added [femicide](#) to the list of the most heinous crimes, with punishment of 12–30 years' imprisonment. In 2019, Congress is voting to add trans women under the Maria da Penha Law, which is important considering that the life expectancy of trans people in Brazil is 35 years.

Despite Brazil's progress on paper, recent developments have presented substantial practical setbacks. The present-day situation for gender-based violence is far from rosy. Brazil's new president, Jair Bolsonaro, a far-right, Evangelical Christian known for [making degrading comments](#) about women and members of the LGBTQI, Afro-Brazilian, and indigenous communities, made a substantial change within hours after taking office in January 2019. Bolsonaro not only made a despicable “fox guarding the hen house” transfer of responsibility for overseeing indigenous territories from Funai, Brazil's indigenous agency, to the ministry of agriculture, backed by mining, farming, and logging lobbyists; he also [created a new ministry](#) for overseeing women, family, human rights, and indigenous peoples, then explicitly removed concerns about legal protections for LGBTQI peoples from that ministry's responsibilities, and appointed as its chief minister another Evangelical Christian, Damares Alves, [who has spoken out against abortion and feminism](#). Emboldened by the changing-of-the-guard in Brazil, some Brazilian politicians are now pushing for a ban on talking about gender diversity and sexual orientation in schools and, in the run up to, and time after, Bolsonaro's election, [LGBTQI hate crime has increased](#).

At the international level, Brazil's new discourse is leaving people confused. During a recent meeting of the UN Human Rights Council on July 11, 2019 regarding sexual abuse and gendered violence, [Brazil, alongside Qatar, Somalia, and Bahrain, supported some of the most conservative proposals in the Muslim world](#), such as Pakistan's proposal to remove references to the need to provide sex education to girls, and Egypt's proposal to suppress the notion that there is a right to sexual and reproductive health.

b. Rampant Violence

Violence against women reached such prevalence in Brazil in the run up and aftermath of Bolsonaro's election that the Inter-American Court on Human Rights (IACHR) issued a [press release](#) in early 2019 condemning gender-based killings of women in Brazil, which had reached [an average of four per day in the first month of 2019](#), emphasizing that “the murders[MOUI] are not an isolated problem” but rather “symptomatic of a pattern... that affects the entire country, the result of sexist values deeply rooted in Brazilian society,” including racism, machismo, and the impunity of the justice system.

Reports during the build-up to the 2016 Summer Olympics in Rio de Janeiro focused on a “[rape epidemic](#)” plaguing the country, referencing sources stating that a woman in Brazil is raped every 11 minutes on average. A 2011 government report found that [43 percent of all Brazilian women](#) have suffered some kind of sexual violence in their homes.

Specific cases of recent violence have grabbed national and international attention and sparked outrage. In March of 2018, Rio de Janeiro councilwoman and noted human rights activist Marielle Franco, an Afro-Brazilian member of the LGBTQI community, [was gunned down after leaving a public meeting](#). In early 2019, a video of a trans woman, Dandara dos Santos, being tortured and killed in Fortaleza in Northeastern Brazil, [went viral and shocked the world](#).

Impunity among police and in the courts mean that many cases go unreported, remain unaddressed, or are ignored. One reverend who ran a safehouse for women in Ariquemes stated, “even in the court system, there are some judges or lawyers who say when a husband and wife fight, we have no right to intervene, it’s a private matter.” While the reverend’s statement relates to partner violence, it highlights a sense of apathy among some in the court system that can make access to justice difficult for victims of sexual violence of all kinds.

c. Positive Developments

Despite the apathy among some in the courts, others are embracing the changes brought about by Brazil’s new legislation. A representative of the União de Mulheres de São Paulo, a women’s organization, stated that, after the Maria de Penha Law was adopted, judges and lawyers received training in gender violence, and the number of judicial officials aware of gendered violence increased. Whereas, before the implementation of the law, nobody really talked about gender and sexual violence, afterwards at least 10 to 15 officials in every judicial district in Brazil were well versed in the topic.

When faced with a case of sexual violence in Brazil, victims or their associates can reach out for help through a 24-hour hotline called “[Ligue 180](#),” after the numbers one dials to call it. The hotline operators have the authority [to mobilize military police units](#) to help victims and to follow up on their cases. In the five years since it launched, the 180 hotline received [nearly two million calls](#).

Some public communication does occur: There is a public broadcast on television from the Ministry of Education to disseminate information on domestic and sexual violence against women, though educational TV does not really capture audiences from commercial programs, and, on Brazilian radio, there is a Radio Women’s Network that, since 1999, has a daily one-hour program called Habla Mulher, where gender issues are debated. State Councils for Women’s Rights, established in the 80s, only function in 14 of the 26 states of the Brazilian federation, and there are only 53 Municipal Councils for Women in the 5000 municipalities of Brazil. In general, support services and education programs for women have little dissemination and, if it is done, it is through NGOs and small publications.

Since 1988, the Brazilian government has been [steadily passing laws and creating initiatives to promote gender equality and protect women](#). The laws are listed below, and the initiatives include: the Secretariat of Policies for women (Secretaria de Políticas para Mulheres), a governmental organization aimed at promoting gender equality and fighting all forms of violence and discrimination against women, created in 2003, and now part of the Ministry of Women, Family, and Human Rights (Ministério da Mulher, de Família

e dos Direitos Humanos); the National Policy for Women's Comprehensive Health Care (Política Nacional de Atenção Integral à Saúde da Mulher) founded in 2004; the First National Conference on Policies for Women (I Conferencia Nacional de Políticas para Mulheres), also in 2004, which brought together 120,000 women to develop proposals for national reform that were then implemented and resulted in the Maria de Penha Law; the Second National Conference on Policies for Women in 2007, which launched the National Pact for Ending Violence Against Women (Pacto Nacional pelo Enfrentamento à Violência contra a Mulher); the Network for Ending Violence Against Women (Rede de Enfrentamento à Violência contra a Mulher) a joint collaboration between governmental and non-governmental institutions, in 2011; and the House of Brazilian Women (Casa da Mulher Brasileira), a series of women's emergency services centers throughout the country, in 2013. Twenty-seven Houses of Brazilian Women were supposed to be created, one in each Brazilian state, but, due to a lack of funding, only seven were built and, of those, [only 2 are fully operational](#).

2. Specific Laws

[Law 10.788](#) makes it compulsory for all hospitals and other health services, public or private, to report cases of violence against women to law enforcement authorities.

[Law 12.845](#) requires the compulsory and comprehensive care of people in situations of sexual violence, establishing that hospitals must offer victims of sexual violence complete, multidisciplinary emergency care, in order to control and treat physical and psychological grievances resulting from sexual violence, and directing the victim, if necessary, to social assistance services. For the purposes of this law, any form of non-consensual sexual activity is considered sexual violence.

[Law 11.340, the Maria da Penha Law](#), criminalizes all kinds of violence against women and requires the police to investigate them. It articulated multiple forms of violence against women, including physical, psychological, sexual, patrimonial, and moral. The law characterizes types of domestic violence as: a) physical violence: any conduct that offends the integrity and body health; b) psychological violence: conduct that causes emotional damage, decreased self-esteem, impairment of development and humiliation; c) sexual violence: any conduct that constrains the woman to witness, maintain or participate in unwanted sexual intercourse through intimidation, threat or use of force; prevention from using any contraceptive method or being forced into marriage, pregnancy, abortion or prostitution; d) patrimonial violence: retention, subtraction, partial or total destruction of objects, working instruments, personal documents, goods, values or economic resources; e) moral violence: any conduct that results in slander, defamation or injury. Further, the law established special courts of domestic and family violence and allowed for judges to implement urgent measures to protect women in situations of violence and outlined procedures for police and prosecutors to follow in investigations.

[Law 13.104](#) defines femicide as aggression committed against a female person in a family environment that intentionally causes injuries that lead to death, with penalties of 10 to 30 years imprisonment.

[Law 13.505](#) provides for the right of women in situations of domestic and family violence to receive specialized police and expert attention provided, preferably, by trained women. It establishes that, during the interrogation of women in situations of domestic and family violence, the interrogators must safeguard the women's physical, psychological, and emotional integrity (subsection I). It also establishes the guarantee that women in situations of domestic and family violence will, under no circumstances, have

direct contact with investigators or suspects and related persons (subsection II), so as not to revictimize women, avoiding successive interrogations on the same fact, as well as interrogations about their private lives (subsection III). The law also states that the interrogation must be mediated by a professional specialized in domestic and family violence in a place defined especially for this purpose. Finally, the law establishes that the States and the Federal District, in the formulation of their policies and plans to care for women in situations of domestic and family violence, should prioritize the creation of specialized police commissioners for women, research centers for femicide, and specialized teams for the attention and investigation of serious violence against women.

3. Resources

If needed, there are helpful places and people to call for help:

- Ligue 180: dial “180” from Brazil. For international numbers, [see here](#).
- Houses of Brazilian Women (Casas da Mulher Brasileira)
- São Luis (open 24 hours): +55 98 3198-0100
- Av. Prof. Carlos Cunha, 572 – Jaracaty, São Luís
- Brasília: +55 61 3226-6981
- SEN Setor de Grandes Áreas Norte 601 – Brasília
- Mato Grosso (open 24 hours): +55 67 2020-1300
- R. Brasília, Lote A, Quadra 2 s/n – Jardim Ima, Campo Grande
- Promotoras Legais Populares
(Public Legal Prosecutors – Women who are trained to volunteer helping women victims of violence)

Map of PLPs in São Paulo state and Brasília:

<http://promotoraslegaispopulares.org.br/encontre-plps/>

- Ministry of Women and National Security, [here](#).
- Brazilian Federal Police, [here](#).

Check the Ayahuasca Community Guide for the Awareness of Sexual Abuse:

<https://chacruna.net/community/ayahuasca-community-guide-for-the-awareness-of-sexual-abuse/>