



## Shadow Report on the implementation of the CEDAW convention by Brazil regarding its inform CEDAW/C/BRA/8-9 - 88th session (13-31 May 2024)

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### Introduction

Many public campaigns have been carried out in recent years by the Brazilian government regarding prevention and information about domestic violence (DV), as described in the eighth and ninth combined periodic reports submitted by Brazil to the CEDAW Committee (CEDAW/C/BRA/8-9 - Session II. Impact of the pandemic on women's rights and gender equality - Prevention Axis). Legislation on the subject has also advanced during the same period.

Nevertheless, official data on DV have shown that it has been rapidly increasing in Brazil, as noted by the *Fórum Brasileiro de Segurança Pública* (FBSP - Brazilian Forum of Public Security). According to the fourth edition of their research [Visível e Invisível: a Vitimização de Mulheres no Brasil](#) (2023), all forms of violence against women increased in 2022 regarding its time series, notably severe forms of violence. The data indicate that **43%** of Brazilian women (**27.6 million**) have been **victims of physical, sexual, and/or psychological violence by an intimate partner**. By age group, the data allow us to identify which period of life poses the greatest risk for women (Age: 16-24 = 38.5%; **25-34 = 48.9%**; 35-44 = 43.6%; 45-49 = 44.2%; over 60 = 37.5%). The data also show that **mothers experience more violence** than women without children (**44.4%** vs. 40.4%).

Research on the subject in 2022 demonstrated what numerous scientific studies have already pointed out, namely, that the **post-separation context poses a special risk** for women subjected to domestic violence. The situation where the perpetrator of the violence is known and it consists on a **former intimate partner** has been worsening, as demonstrated by the time series from 2017 to 2023 (2017 = 16%; **2023 = 31.3%**). Data also reaffirm that the household is the most dangerous place for women, including for more severe forms of violence such as femicide.

Additional data from the [17º Anuário Brasileiro de Segurança Pública: 2023](#) (17<sup>th</sup> Brazilian Public Security Yearbook: 2023) indicate an **increase** in both the number of **femicides** in 2022 (< **6.1%**; 1,437 cases) and the number of **intentional homicides of women** (< **1.2%**), compared to the previous year (2021). In the context of DV, there was a **2.9% increase in assaults** (245,713 cases); a **7.2% increase in threats** (613,529 cases); a **49.7% increase in reports of sexual harassment** (6,114 cases); and a **37% increase in cases of sexual misconduct** (27,530 cases).

In this context of a clear increase in DV against women, the report points out that only **85% of requested emergency protective measures were met**, despite the implementation of the National Form of Risk Assessment and Life Protection (FRIDA Form) (referred to in [CEDAW/C/BRA/8-9 - Session II. Impact of the pandemic on women's rights and gender equality - Action Axis – items 30-36; and session V. Women's access to justice – items 78-79](#)). This means that women seeking assistance from the Judicial System still encounter obstacles to their protection, which correlates with the increase in femicides ([Link](#)).

Thus, as illustrated, the rupture with an abusive intimate partner does not necessarily signify the end of domestic and family violence. Particularly when there are minor children, post-separation abuse in the form of parenting intimate partner violence (IPV) can persist through them (i.e. *violência vicária*) as a form of maintenance of the DV. Custody stalking may become the “post-separation weapon of choice through which coercively controlling and/or violent fathers attack and weaken mother-child relationship”, amongst other forms of harassment, punishment, humiliation and torment of women in their role as mothers ([Elizabeth, 2017](#)). This leads women (and their children) directly to the Judicial Branch, often to Family Courts, which instead of acknowledging the perpetuation of the abuse, “creates conditions for abusive behaviors to arise following separation and divorce” ([Spearman et al, 2022](#)).

A recent report by the United Nations Special Rapporteur on violence against women and girls, its causes and consequences, titled “[Custody, violence against women and violence against children](#)”, from April 2023, raised particular concerns regarding what it termed as “a pattern of ignoring intimate partner violence against women [and child abuse] in determining child custody cases in different jurisdictions”, including Brazil. It also pointed out that mothers (and/or their children) who make allegations of domestic and family violence are being penalized by law enforcement and/or the Judiciary, based on the assumption that such allegations were made by mothers with the deliberate intention to manipulate their children and to separate them from their fathers – a behavior often termed “parental alienation” (PA). Brazil is currently the only country to recognize PA in its legislation, although the ideology of parental alienation has been widely disseminated, causing a negative impact on women's and children's rights globally.

### **Gender-based institutional violence**

Following official data in Brazil, there is a **contradiction between the expansion of awareness campaigns about domestic violence (DV) and the increase in rates of all forms of violence against women, including DV**. As seen, domestic violence primarily affects women with children,

in the post-separation context, in which, as indicated by the UN, there is a tendency from the Judiciary to dismiss violence and abuse allegations from mothers regarding themselves and/or their children in custody cases. From our perspective, as social movements formed by victims of domestic violence, **we understand that the observed contradiction can be explained, significantly, by gender-based institutional violence, especially that perpetrated by the Judiciary and the Public Prosecution Office.** This type of violence prevents the proper accountability of abusers, endorsing violent behaviors, and, worse, promotes the persecution of women, notably in Family Courts, affecting their rights and their children's rights.

Although there is a lack of proper recognition of institutional gender-based violence in Brazil and, consequently, official data related to the subject, collectives and non-governmental organizations of protective mothers – such as the *Collective Mothers in Fight*, created in 2016, and *Occupy Mother*, created in 2018 – have been exhaustively denouncing numerous and serious cases of abrupt and violent custody reversals by Family Courts in favor of abusive fathers, resulting in no contact orders between mother-child, especially after complaints of domestic violence and/or child abuse, particularly child sexual abuse. The organizations also denounce the widespread disregard by Family Courts for situations of domestic violence in custody proceedings (and related matters), resulting in judicial decisions of indiscriminate shared custody and parenting time that reinforce and perpetuate violence, especially in the form of coercive control, exposing women and children to further risks and violence.

Although there is no official information on how many mothers who are victims of domestic violence have lost custody of their children to the perpetrators or how many children who are subjected to violence/abuse by their fathers are forced to live with them due to a court decision, the hundreds of cases coming from all parts of the country are significant enough to infer a few premises. Far from constituting “isolated facts” – which could be considered an alleged deficiency of the defense or a judicial error – these cases constitute 1) **an orderly practice of imposing submission of the mothers to the patriarchal structure of not denouncing paternal deviations** combined with 2) **the prioritization of parental (fathers') rights instead of the protection of the children and/or women subjected to violence** – which collides with the CEDAW Convention.

The last [data survey](#) conducted by the *Collective Mothers in Fight*, in 2019, analyzed 130 of more than 300 cases monitored then across the country by the collective. Amongst these cases, 64 had been sentenced, with:

- 57% of mothers who reported domestic violence against themselves losing custody;
- 89% of mothers who reported sexual abuse against their children losing custody;
- 100% of mothers who reported physical abuse against their children losing custody;
- 100% of mothers who moved away to a new city with the children losing custody;
- 89% of fathers who accused mothers of anything gaining custody;
- 100% of fathers who kidnaped the children gaining custody;
- 100% of fathers who abandoned the child with the mother gaining custody afterwards.

Cause of the 'conflict'	Number of cases	Number of sentences	Cases mother lost custody	Cases mother regained custody	Interruption of motherhood	Child's gender		% Mother's loss of custody
						M	F	
Mother reported child sexual abuse	66	27	24	1	9	31	38	89%
Domestic violence	12	7	4	2	1			57%
Father accused mother of anything	28	19	17	5	8			89%
Father kidnapped child	5	1	1	0	5			100%
Mother moved away with child	11	7	7	1	1			100%
Father abandoned child	3	1	1	0	1			100%
Mother reported child physical abuse	2	2	2	0	1			100%
Mother requested child support	3	0	0	0	0			
<b>TOTAL</b>	<b>130</b>	64			26			

Out of the 130 cases with complaints of domestic and family violence and/or demands for child support, **82 (63%) were cross-claimed with “parental alienation” allegations**. In **43% of the cases where mothers lost custody (=53)**, they **also lost the right to visit their children (=23)** for a period ranging from 2 months to more than 2 years. The loss of contact mother-child also occurred in other cases where fathers kidnapped the child (4 cases where mothers didn't lose custody or had ongoing proceedings; 1 where she did). If it wasn't for [Meier's \(2020\)](#) research in the USA, with similar findings, one would say that such data are absurd.

Number of cases mothers lost custody	Number of cases mothers also lost right to visit child	%
53	23	43%

Even more disturbing than these data are the [excerpts from forensic expert reports and judicial rulings](#) dismissing abuse and violence against women and children, and reversing custody in favor of abusers/aggressors.

Since that survey, in 2019, 1) the number of cases has increased, 2) protective mothers' collectives have multiplied, and 3) so have the complaints/lawsuits involving parental IPV, separation and custody disputes followed by cross-claims of “parental alienation” by fathers, amongst other gender-based discriminatory claims and arguments.

In 2024, an [online survey](#) conducted by the *Collective Mothers in Fight* and the *Ocuppy Mother* movement with 76 respondents (75 women and 1 man), showed that **institutional gender-based violence is a serious threat to women's access to justice as well as their children's**. Among the total respondents, **75% (57 women) identified themselves and/or their children as victims of**

**domestic and family violence** and/or explicitly mentioned **acts of violence perpetrated by the father**. Among these women, **84% (48 women)** reported that their **children witnessed the domestic violence** they suffered. Furthermore, within this group, **58% (33 women)** reported being **accused of “parental alienation”**. When asked if **judicial decisions perpetuated domestic and family violence**, **75% (43 women)** answered **yes**. When asked if a significant portion of their **income was directed towards legal defense efforts for their children**, **89% (51 women)** also answered **positively**, denoting the patrimonial implications of this form of violence.

Among the [qualitative responses](#), there were systematic and reiterated testimonies of DV perpetrated through the children aiming at the mother (*violência vicária*) and/or sexual, physical and/or emotional abuse of children by their fathers, along with the endorsement of these abusive behaviors by the Judiciary. In legal proceedings in Family Courts, women reported being stereotyped as “vindictive” and “whiners”, with their complaints against the fathers/abusers of their children being considered not the result of real facts and danger or risk, but rather a manifest intention to alienate the father from the child’s life (the so-called “parental alienation behavior”). Women reported not only having their evidence and proofs discredited in court but, in many cases, completely ignored, instead of being subjected to careful analysis and consideration in the instruction of the proceedings. Children’s complaints against their fathers and/or their demands for no contact were reported as being disregarded by the Judiciary and, worse, used against their mothers to prove alleged manipulation.

On the other hand, it was reported that fathers were able to rely on the Judicial System to support them, validate their (cross) claims of “parental alienation” (among other discriminatory arguments towards women), and reinforce harassment and persecution of mothers. The Parental Alienation Law was often referred to as a handy tool for abusive fathers to discredit abuse allegations in court and reverse victim-offender positions (DARVO), with women ultimately having to defend themselves, rather than being defended, after reporting abusive/violent men. Lastly, mothers understand that children's safety is being sidelined in favor of parental fathers’ rights, reaching extreme – though not uncommon – situations where sole custody is awarded to the offenders/aggressors/abusers. In their own words:

The Parental Alienation Law is an instrument of torture and perpetuation of violence against women/mothers and their children. It distorts real scenarios of violence, neglect, and abuse, turning them into a parallel tragedy. Within a parental alienation lawsuit, **the protective mother becomes the villain, deserving the worst kind of punishment, while the aggressor, abuser, pedophile father becomes an unjustly portrayed victim**. The child is seen as an object with no rights or will, their voice is muted, and nothing they say is considered by **judges, prosecutors, forensic psychologists, social workers as they are all focused on labeling the mother as the alienator. The child's own words are used against them**. My son, who was a victim of sexual abuse, was forced to return to the home of his assailant to be abused again by his father with the State's authorization through the application of this perverted pseudoscience. They are all accomplices, equally culpable, even if they did not personally commit this crime. **They not only allowed the father to be alone with his victim once again but also forced the child to this outcome, even though he clearly stated that he did not want to go**. The Federal Constitution states that "no one shall be subjected to torture or to inhuman or degrading treatment". The Parental Alienation Law is unconstitutional.

**The Parental Alienation Law is institutionalized violence against the child and the mother. At no point is the child protected or separated from the father's violence against them; on the contrary, the Judiciary forces the child to interact with the aggressor, causing increasing psychological, physical, and emotional traumas. The mother, desperate, is forced to witness the violence against her children, silenced by the Judiciary and depleted of her assets while trying in vain to prove, through the reports of assistant psychologists and a team of lawyers, that her children are being torn apart by the father, who has the unconditional support of forensic experts, public prosecutors, judges, and appellate judges.**

The Judiciary does not prioritize the Child and Adolescent Statute [ECA – Law 8.069/1990]. It is as if the child were not a subject of rights. **Nothing the mother or the child reports is taken into consideration. But the accusations and affirmations of the abusive father are! The Judiciary decides on joint custody regardless of the violence suffered by this mother and this child. I do not trust the Judiciary. They do not confront the material and psychological violence experienced in families. Every situation of domestic violence is seen as an isolated case (resulting from the "conflict" between the parents), and when it is seen as an exception, they deny the social aspect and the intense violence perpetrated by men against women and children. It is a matter of collective public health. Domestic violence will only cease to exist when the institutions responsible for guaranteeing rights truly confront this problem. We live in a surreal situation of vulnerability, but we are not alone. There are hundreds of women experiencing this violence revitalized by legal institutions (...).**

At this point, it is imperative to emphasize the damage and severity of institutional gender-based violence against women, jeopardizing not only women's rights but also their children's rights. This type of violence also endorses impunity and poses a threat to the lives of women and children, discouraging complaints instead of protecting complainants. Needless to say, this type of violence clashes with the implementation of the CEDAW, namely its 15<sup>th</sup> and 16<sup>th</sup> article, and its 33<sup>rd</sup> and 35<sup>th</sup> Recommendation.

These facts and allegations are also not new. On the contrary, they have already been submitted and presented countless times to the National Congress ([Legislative Branch](#)) and the [Executive Branch](#), inclusive during different administrations. These cases exemplifying an structural problem have also been published in the [media](#), throughout the years, demonstrating the urgent need for measures to be taken by the Brazilian Government beyond welcome but insufficient expressions of condemnation.

Among these media reports, particularly noteworthy is the series of reports produced by The Intercept Brazil in April 2023 detailing institutional gender-based violence, notably the impacts of the instrumentalization of the Parental Alienation Law by abusive fathers in courts and how the system not only failed to protect women and children subjected to violence, but actually enabled abusers. In [part 1](#), the article describes the "classical" case where mothers denounce child sexual abuse, many times supported by expert witness testimonies and reports, and consequently lose custody to the abuser and are deprived of contact with their children. In [part 2](#), many other cases are described, as well as the active posture of forensic experts, judges and public prosecutors (among others) to dismiss abuse and persecute denouncing mothers, showing that these are not "isolated cases" but rather demonstrate a pattern of the Judiciary and Public Prosecution Office targeting women, consequently affecting their children's rights. [Part 3](#) describes how



gender-based institutional violence kills when it reproduces discrimination against women in its judgments, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, discrediting or assigning inferior status to the testimony of women, leaving mother and children unprotected. In the case presented, in accordance with the mother: *"I had to constantly chase doctors, psychologists, schools, and all kinds of documents to prove that everything he said was a lie. He, on the other hand, whatever he said, judges and prosecutors accepted"*. Despite her reports of domestic violence and her explicit claims that her children were at harm's way, the Judiciary understood that unsupervised parenting time with the father was more important. He murdered both her children. [Part 4](#) of the series was censored by the same Justice System that was being denounced, demonstrating a serious violation of freedom of speech in Brazil, which definitely doesn't contribute to the necessary organizational and societal change. This part, like the others, brought forward names of public officials from the Judiciary and Public Prosecution Office involved in the described cases, and their respective reports, statements, and rulings that jeopardized women and children. Finally, [part 5](#) describes the lobby behind the Parental Alienation Law, exposing its interest group.

These allegations have also been previously brought to the attention of the CEDAW Committee ([CEDAW/C/BRA/QPR/8-9; item 22](#)) provoking the Brazilian Government to answer. It even recognized that "concrete unfair situations (...) [were] observed" ([CEDAW/C/BRA/8-9 – Session XVII. Marriage and family relations; item 240](#)), but there were no indication of urgent measures to be taken regarding the situation. It is not enough to say that "this legislation is being revised" by the National Congress (referring to Parental Alienation Law) when women and children are suffering continuous, existential, and deleterious harm, when not being killed; and when this legislation is only a part of a wider problem called gender-based institutional violence, particularly perpetrated by the Judicial Branch (but not only), which should be guaranteeing the safety of victims instead of causing more harm and suffering. We highlight that what we are witnessing is a structural *modus operandi* of the Judiciary, which reflects and reinforce gender discrimination against women in society.

Regarding actions developed by the Judiciary Branch for improving the access to justice ([CEDAW/C/BRA/8-9 – Session IX. Gender-based violence against women; items 139-142](#)), the Brazilian report pointed out that the National Council of Justice (CNJ) has established, through Resolution 254, the National Judiciary Policy of Fighting Violence against Women, which includes training for judges and other judicial public officials on issues related to gender (among others). From the social movement's perspective, we can affirm that this training has been insufficient, inadequate and/or inefficient. The situation is critic and demands urgent, massive and in-depth training, especially for judges (all levels) and forensic psychosocial experts associated to the judicial system, as well as for the Public Prosecution Office, on topics such as domestic and family violence, post-separation abuse (*violência vicária*), coercive control, child abuse, and trauma, in line with the recommendations of the aforementioned UN report (April 2023). Currently, conversely, there is a hegemony of the parental alienation ideology in the Judicial System, which includes the establishment of a working group at the CNJ to standardize the testimony of children

in cases of parental alienation (CNJ ordinances 359/2022 and 123/2023). This ideology is also present in the CNJ's "Parents online workshop" ([Oficina de Pais e Mães Online](#)), based on the "Divorce Guide for Parents" ([Cartilha do Divórcio para os Pais](#)), to which female victims of parenting IPV are obliged to attend. Once domestic violence is mostly disregarded in Family Courts and relabeled as "conflict" among both parents, women are held responsible for the violence they suffer.

It is necessary to remember that the Parental Alienation Law was rejected by various human rights organizations, the UN and State institutions in Brazil<sup>1</sup>, but no effective actions were taken by the Judiciary Branch or the Executive Branch to directly address the problems caused by this legislation and its harmful consequences. Regarding the Legislative Branch, there are currently four bills aiming to revoke the Parental Alienation Law, after a failed previously attempt to revoke this legislation. This has taken a great toll on the social movement that has been investing great efforts in denouncing the situation and claiming for change, with no success. There are also no bills addressing parenting IPV (i.e. *violência vicária*) as a gender-based form of domestic violence with direct and indirect impacts on children, including its extreme form of [paternal filicide](#). Immediate measures must be taken regarding these issues, as Spain and Mexico have done by approving a law to restrain "violência vicária", or as the United States has done by approving federally Kayden's Law (and others alike in different states) which imposes training for the Judiciary Branch, particularly Family Courts, on the referred subjects. We understand that training must be accompanied by exemplary punishment measures for institutional gender-based violence, especially in the Judiciary Branch, in order to promote a rapid and radical change, guaranteeing the protection of victims instead of enabling patterns of abusive behavior.

The Brazilian report also indicates that the National Forum of Domestic and Family Violence Against Women Judges (FONAVID) continues to conduct "the judiciary debate concerning the subject, as well as promoting incentives to the harmonization of procedures in the Specialized Courts of Domestic and Family Violence against Women" ([CEDAW/C/BRA/8-9 – Session IX. Gender-based violence against women; item 141](#)). It's worth mentioning that mothers who are victims of domestic violence, more precisely parenting IPV (*violência vicária*), and reach out for these Specialized Courts in Brazil have, as a rule, their claims of gender-based violence dismissed and, as a result, are directed to the Family Courts to discuss custody and other related issues, where not only there is a lack of training on DV but also where claims of abuse and violence are, mostly, ignored and/or used against the mothers and their children. In other words, even in the Specialized Courts of Domestic Violence, the mothers do not have an appropriate place to report parental IPV in the form of post-separation abuse. Few women/mothers manage to guarantee a

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<sup>1</sup> [UN twice](#); [MDHC](#) (Ministry of Human Rights and Citizenship); [CNDH](#) (National Council for Human Rights); [CONANDA](#) (National Council for the Rights of Children and Adolescents); [CNDM](#) (National Council for Women's Rights); [CFESS](#) (Federal Council of Social Service); [CNS](#) (National Health Council); [NUDEM/SP](#) (Specialized Nucleus for the Promotion and Defense of Women's Rights – São Paulo); National Committee for Combating Sexual Violence against Children and Adolescents, ECPAT Brazil Network, National Association of Centers for the Defense of Children and Adolescents (Anced), and the National Campaign "Make It Beautiful - Protect Our Children and Adolescents [[Faça Bonito](#)]; [DPU](#) (Public Defender's Office of the Union), among many others.



restraining order for themselves in the Specialized Courts, being almost impossible though to extend it to their children (even if legally foreseen).

The Brazilian report also mentions that the “Law Maria da Penha [paragraph 2 from Article 14-A] establishes that the offended part has the option of bringing a divorce or dissolution of stable union action before the [Specialized Court]” ([CEDAW/C/BRA/8-9 – Session V. Women’s access to justice; item 73](#)). What it doesn’t mention is that between 2009 and 2011, FONAVID issued [Statement n. 3](#) limiting the hybrid jurisdiction of the domestic and family violence court solely to the issuance of restraining orders, violating the aforementioned Article 14 of the Law Maria da Penha and significantly restricting the original meaning and effectiveness of this law by redirecting all family issues to Family Courts, where, as said, there is no appropriate training for handling domestic violence cases. The reality is that the mentioned procedure is something exceptional in Brazil, a fact that gained visibility recently through the case of the television presenter [Ana Hickmann](#).

The FONAVID statements also disregard CEDAW (Recommendation n°. 33, item 58, letter C, and Recommendation n°. 35, item 32, letter B) by recommending mediation and conciliation in cases of domestic and family violence, as stated in [Statement n. 23](#): “Mediation can function as a tool for managing family conflicts underlying procedures and lawsuits involving domestic violence”. We emphasize that mediation is widely promoted in Family Courts where women subjected to domestic violence are harassed and practically obliged to accept agreements that do not prioritize their rights or their children’s best interests and rights, under the threat of being condemned for parental alienation. As conflict is conflated with abuse in Family Courts (among other courts), mediation becomes the routine outcome, expressing the urgent need for change. Therefore, the aforementioned FONAVID statements are unconventional and should be repealed, preferably through a law that explicitly states the unconventionality of conciliation measures in cases of domestic and family violence, as described in the aforementioned CEDAW’s Recommendations 33 and 35.

In 2023, the CNJ issued Resolution N°. 492/2023, which made the guidelines of the Protocol for Judgments with a Gender Perspective by the Judiciary mandatory, aiming to “expand access to justice for women and girls”. Nonetheless, this Protocol continues to be vastly ignored not only in Family Courts but also in Specialized DV Courts, not to mention when it is [used against victims](#) of domestic violence to deny them their rights to protection, as in court rulings that remove restraining orders from women/mothers denying the gender-based violence present in family relations.

On the other hand, the confidentiality of Family Court proceedings, which should serve to protect victims, in practice, has been serving to protect domestic abusers and judges, forensic experts, prosecutors and attorneys who engage in institutional violence and rely on the lack of transparency and accountability to perpetuate abuse. Regarding hearings, not all of them are recorded or entirely recorded, not to mention when they are not provided or disappear from the

system.

On the legal side, legislation aimed at protecting denouncers of domestic and family violence against children ([Law 14.344/2022](#)) has not been effective in protecting mothers who make legal complaints aiming to defend and protect their children against their abusive fathers. Legislation aimed at inhibiting and punishing institutional violence ([Law nº 14.321/2022](#)) faces serious corporatism in the Judicial Branch. The sanctions foreseen in the Organic Law of the National Judiciary ([Complementary Law nº 35/79](#)) have not been appropriately applied to the judges responsible for subjecting women and children to further violence, denying them basic rights, such as life and security. Legislation regarding domestic and family violence against women (Law Maria da Penha - [Law 11.340/2006](#)) lacks the inclusion of parental IPV/*violência vicária* as an expression of gender-based domestic violence, leaving a gap in the matter. Regarding the statute of limitations for offenses of domestic and family violence, this legislation provides for a period of 6 months, including the opening and resolution of the investigation. Moreover, only physical injury resulting from domestic violence results in unconditional public criminal action. Both conditions are insufficient efforts to curb domestic and family violence as a whole due to the dynamics of this type of violence, which goes beyond its physical expression, and often contributes to preventing or delaying reporting due to fear. Therefore, legislative measures are necessary to advance in curbing domestic and family violence against women and children, as well as in curbing and punishing institutional violence considering the threat it poses to society.

### **Requests to the CEDAW Committee**

According to the CEDAW, the State has the duty to exercise due diligence to prevent, investigate and punish acts of violence that are perpetrated by the agents of the State or by private individuals, as stated in the convention's articles 1, 2 (c, d, f, g), 3, 5 (a) and 15. We draw attention to the Brazilian Government's specific obligation to eliminate discrimination against women, especially gender-based discrimination, and to ensure that all its organs and officials, including State officials, to abstain from incurring or contributing to discriminatory practices on the ground of gender, race, colour, sex, language, religion or social origin. Such obligation includes the duty to ensure that women have equal protection in front of the law as well as guaranteeing women access to justice, restitution and non-repetition. Precisely according to the articles 2 (f) and 5 (a), States parties have the obligation to adopt appropriate measures to amend or abolish not only existing laws and regulations but also customs and practices that constitute discrimination against women. States parties also have the obligation, in accordance with article 16 (1), to adopt all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relationships. It's worth remembering the Convention on the Rights of the Child, which recognizes the right of the child to be heard and have its opinion taken into consideration (article 12); the right to protection and care (article 3); the right to development (article 6); the right to not be arbitrarily separated from its mother against its will (article 9); as well as the right to be protected against all forms of abuse, including sexual and domestic violence (article 19).

The CEDAW Committee's General Recommendation 35, of 2017, on the right to a life free from violence, directly refers to the obligation of State institutions, agents and organs and their duty to refrain from incurring discriminatory practice, whether direct or indirect, against women, and ensure that all its authorities, institutions and public officials act in conformity with these obligations. In accordance with this recommendation, the State is responsible for acts or omissions of its officials where they constitute violence against women. The same applies to the Recommendation 33 where the Committee examines and observes a number of obstacles and restrictions that impede women from realizing their right to access to justice on a basis of equality, including a lack of effective jurisdictional protection offered by States parties in relation to all dimensions of access to justice. The Recommendation details these obstacles, declare that they constitute a persistent violation of women's human rights, and make recommendations regarding the subject.

Considering the cited Convention and its respective recommendations, as well as the present report regarding Brazil, it is imperative to ensure transparency in the actions of the Judiciary Branch, in all family related proceedings, and to promote society's access to information, while observing the right to privacy and anonymization. We mention the *Red Internacional de Justicia Abierta* ([RIJA](#) – International Network of Open Justice), which withholds successful experiences worldwide of transparency and governance in the Judicial System. Brazil already has an [international partnership](#) in this regard directed at the Executive Branch. We understand that the Judiciary Branch must join these and other similar partnerships, replicating good governance practices and bringing more legal certainty and security to society.

Another urgent demand is the promotion of studies and production of scientific and official evidence on gender-based institutional violence, notably in the Judiciary Branch, as well as studies and impact analyses of laws governing Family Law, such as the Shared Custody Law ([Law 13.058](#)) and the Parental Alienation Law ([Law 12.318](#)), from the perspective of domestic and family violence. The current Civil Code reform – which presently encompasses the Shared Custody Law – must take into consideration situations of domestic and family violence as systematically demanded by social movements of victims. Part of the necessary process to recognize the problem and make a change includes the production of scientific data to support transformative actions. This is an urgent measure, as the absence of official data has been corroborating with the State's omission and vice versa. It is also necessary to create indicators to measure progress amidst a continuous and rigorous process of evaluation of the actions of the Judiciary, especially Family Courts, on the mentioned topic.

It is of imminent urgency to provide training and capacity building for State agents who deal directly or indirectly with domestic and family violence in Family Courts or any other courts (specialized DV courts, children's defense courts, special criminal courts, civil courts etc.), panels, chambers, boards, and similar bodies that address the issue, including, without limitation, judges, prosecutors, judicial experts, public defenders, police officers, guardianship counselors, and other related public officials. This training program must be robust, encompassing concepts of domestic

and family violence, including post-separation abuse/*violência vicária*, coercive control, child abuse, trauma awareness and institutional gender-based violence, as well as an in-depth understanding of gender issues aimed at IMMEDIATELY correcting the revictimization of women and children in situations of violence, especially by the Judiciary. It is desirable to formulate legal instruments that more emphatically prevent institutional violence, providing for exemplary sanctions and penalties for this type of practice, so harmful to society, particularly to the most vulnerable.

Urgent measures are also required to repair injustices, making possible the IMMEDIATE RETURN OF CHILDREN who were abruptly taken from their protective mothers after reporting domestic and family violence, particularly sexual abuse against their children, as a result of punitive measures foreseen by the Parental Alienation Law. These reparative actions shall be extended to all family cases in which domestic and family violence has been recently denounced, even if not previously reported due to fear of being wrongly accused of “parental alienation”. The recently approved law [14.713/2023](#), which prohibits joint custody in cases of domestic or family violence, shall be considered in determining the immediate revisal of these cases. The application of the aforementioned Protocol for Judgments with a Gender Perspective must be compulsory, with its non-application resulting in the nullity of judgments. Its application must count with a follow up program. Other active and explicit measures from the Judiciary Branch towards effectively eliminating gender-bias and stereotyping in the justice system are urgently necessary.

Finally, more effective measures must be taken to revoke the Parental Alienation Law, including giving visibility of the impacts of this legislation on society through campaigns and victim hearings, as well as through an effective commitment of the Legislative Branch, which must also revoke the art.4, II, b of the [Law 13.431/2017](#), which recognizes PA as a form of psychological violence against children.

Yours sincerely,



**Coletivo Mães na Luta**



**Ocupa Mãe**