

**Freedom of expression and the gender dimensions of disinformation in Brazil**  
*Inputs for the Report on freedom of expression and the gender dimensions of disinformation  
issued by Special Rapporteur on freedom of expression and opinion of OHCHR*

ARTICLE 19 Brazil and South América | ARTIGO 19 Brasil e América do Sul<sup>1</sup>

**a. Conceptual issues**

**i. What do you consider to be ‘gendered disinformation’?**

“Gendered disinformation” is understood as the practice of massively sharing false information and misinformation aiming to attack trans and cisgender women and girls, or even members of LBTQIA+ community - as individuals or collectively - or their rights. To ARTICLE 19’s international office Head of Gender and Sexuality programme, Judy Taing, “Unequivocally, there is a direct relationship between disinformation and gender-based violence. The culture of misogyny that fuels gender-based violence is underpinned by the minimisation of women’s voices, the skewing of so-called “feminine” traits as weak, endemic gaslighting that consent is subjective, and constant discrediting of women’s experiences – such as not believing survivors of sexual assault.”<sup>2</sup>

Gendered disinformation can appear as:

- (i) sharing false or misinformative images and information about specific cis or transgender women and girls (as, for an example, communitary leaderships and politically influential women), cisgender or transgender, with the goal to attack them and reach them with some kind of violence;
- (ii) sharing false or misinformative images and information on cis or transgender women and girls as a social and political group, organized or not, with the objective of inflict some kind of violence towards them;

---

<sup>1</sup> ARTICLE 19 Brazil and South America (“ARTIGO 19”) is a non-governmental organization established under Brazilian law since 2008 for the defense of freedom of expression in the region. It is connected to ARTICLE 19, an international organization created in 1987 in the UK, and to eight other regional offices. ARTICLE 19’s work in Brazil is organized around four main axes: (i) Access to Information and Transparency, (ii) Digital Rights, (iii) Gender, Race and Diversity, (iv) Protection and Democratic Participation. On the Access to Information branch, we have developed several works aiming at gender issues. More specifically, since 2015 we have been researching and focusing on the topic of legal abortion from the perspective of access to information about the right and the provision of the service, when present one of the four legal hypotheses in Brazilian Law. These actions culminated in the publication Mapa do Aborto Legal (Legal Abortion Map), which has been updated since 2019. The report, annually, provides inputs on access to information about the legal abortion service in Brazil, being an important and innovative publication in the defense of this right.

<sup>2</sup> ARTICLE 19. Q&A on Disinformation and Gender between Ambassador and Gender Expert. Available in: <https://www.article19.org/qa-on-gender-and-disinformation/>

- (iii) sharing false or misinformative images and information that aim to attack cis or transgender women's rights, both the ones that are already guaranteed and those which women are still fighting for;
- (iv) sharing false or misinformative images and information with the goal to prevent cis and transgender women and girls of accessing rights (for an example, campaigns directed to attack the right to legally abort);
- (v) manipulation and falsification of official data that reflects on the reality of cis and transgender women and girls of a specific country, region or community to hinder access to public policies, as well as to attack them (for example, to attack public policies related to sexual and reproductive rights).

The way of sharing this information is indifferent, and gendered disinformation can go through both online and offline.

## **ii. How is 'gendered disinformation' similar to or different from online gender-based violence?**

Gendered disinformation can be a violence itself when the objective is to strike dignity and stimulate direct violence against cis or transgender women and girls. It can also serve as a basis to violent discourses against women, girls and their rights, wrongly disguised as freedom of expression.

In that sense, gendered disinformation is one of the ways that online gender-based violence can appear. This is because gender-based online violence can also be expressed in manners that are not considered as disinformative, even though those last can come together with gendered disinformation. For an example: when a journalist is cursed online ("dumb"), there is not necessarily a disinformative message expressed. Nonetheless, if that journalist is not only cursed, but also aimed with messages that carry adulterated images of her on an illegal activity, it can be considered that she suffers from gender-based violence of two different kinds: (i) direct harassment/attack, by the cursing; and (ii) online gendered disinformation.

In conclusion, the way of sharing untrue information is indifferent, and gendered disinformation can go through both online and offline. And because of that, it is not possible to address gendered disinformation and online gender-based violence as synonyms, even though they can be related.

## **b. Responses of States, companies and organizations**

### **i. What measures have States, digital companies or international organizations taken to combat 'gendered disinformation'?**

The Brazilian Administration has been organizing important initiatives that aim to combat gendered disinformation, as well as other forms of violence perpetrated against historically marginalized groups, through disinformation or not. It is worth highlighting the working group formed to map out strategies to combat hate speech, that recently published a report with the information gathered in the first semester of 2023<sup>3</sup>. Nonetheless, some topics are still lacking further action to promote access to verified and truthful information, such as the ones related to sexual and reproductive rights and violence against women, girls and LGBTQIA+ community.

As for digital companies, it is known that those have been reviewing policies on content dissemination. Even so, efforts to implement better mechanisms to avoid disinformation are little when close to the challenges and episodes of violence.

**ii. To what extent do these responses comply with international human rights law standards, in particular freedom of expression?**

The Brazilian government has only recently started discussions on how to prevent gendered disinformation. That should be no surprise considering that the Bolsonaro administration engaged in spreading gendered disinformation. One example is a booklet for pregnant women published by the Ministry of Health in 2022<sup>4</sup> that claimed that exclusive breastfeeding prevents a new pregnancy in the first six months after childbirth.

It is still uncertain if the new strategies that will be adopted to combat gendered disinformation will take international human rights standards into consideration. It is possible to say that some of the public officers working on that issue in the Ministry of Women and in the Ministry of Justice recognise that there is an international obligation to assure that women have their right to access to information respected and also that gendered disinformation is a form of violence against women. However, any type of legislation or policy that restricts freedom of expression in Brazil raises concerns due to the lack of commitment of the national courts to the application of the three-part test set out in article 19 of the ICCPR. In fact, not even the Supreme Court has clear standards in analyzing restrictions to freedom of expression and hardly takes into consideration if the measures are necessary or proportional. Moreover, during the last presidential elections, a large number of judicial decisions have been published ordering the removal of content that had the effect of protecting candidates against critics related to their violent conduct against minorities, such as women and indigenous peoples.

**iii. How effective have these measures been in addressing ‘gendered disinformation’?**

---

<sup>3</sup> Available at: <https://drive.google.com/file/d/1u9gU06ZWbZaOfqbcqatqo8yDwWTC1et/view?pli=1>

<sup>4</sup> Available at: [https://bvsm.s.saude.gov.br/bvsm/publicacoes/caderneta\\_gestante\\_versao\\_eletronica\\_2022.pdf](https://bvsm.s.saude.gov.br/bvsm/publicacoes/caderneta_gestante_versao_eletronica_2022.pdf)

Even though measures are being designed, there is still a need to implement public policy and legislative mechanisms so that gendered disinformation doesn't go through.

That is mainly because those practices have been legitimated by some branches of Brazilian government representatives, that keep sharing disinformative messages. For example, recently, some legislative representatives have been discoursing against transgender agenda, and promoting not only symbolic violence against trans parliamentarians and population, but also the spreading of disinformation related to that group. The same happens with topics related to sexual and reproductive rights, women and girls' rights.

**iv. Please provide references / links to legal or policy frameworks developed to address the gender dimensions of disinformation.**

From 2020 to 2022, the provision of sexual and reproductive rights for all people who can impregnate faced serious setbacks through the enactment of administrative ordinances that hindered the right to legal abortion. Such ordinances, that stated guidelines for healthcare professionals, actually sought to constrain people from actually getting the procedure - thus, violating their right to legal abortion. One of the ways of doing so was presenting false "collateral" effects of safe abortion (which are less concerning than those from a c-section, for instance); intimidating these people by showing ultrasound images of the fetus, and so on. Besides, the former Health Ministry launched a booklet with false information destined to pregnant women that stated that there was "no legal abortion" in Brazil - a procedure that has been constitutionally predicted since the 1940's.

Due to such harmful measures, the new Federal Administration and new representatives of the Health Ministry, revoked all ordinances and issued a new booklet with truthful and reliable information early in 2023. The revocation of anti-rights, disinformation and harmful decrees, ordinances and guidelines is a good practice implemented by the new government.

**v. Please provide references / links to relevant case law concerning this topic.**

In 2022, a group of four civil society organizations issued a Action Against a Violation of a Constitutional Fundamental Right (ADPF 989)<sup>5</sup>, a judicial action for denouncing the non-compliance of fundamental principles of Brazilian Constitution and inciting the State to take sufficient measures to do so, related to the guarantee of the right to legal abortion. One of the main points brought by the action is the fact that the State utterly fails in providing sufficient, adequate and reliable information on how, where and under which circumstances women, girls and all people who can impregnate can access legal abortion services.

---

<sup>5</sup> More information can be found at: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=6437138>

### c. Finding solutions

#### i. What recommendations do you think the Special Rapporteur should make and to whom on combating gendered disinformation?

Governments and policymakers:

- Develop comprehensive and accessible legal frameworks that address gendered disinformation, ensuring that laws protect individuals from targeted disinformation campaigns based on gender;
- Develop campaigns that share and disseminate reliable and truthful information on public policies, access to justice, laws and rights, among others, directed specifically for women and LGBTQIA+ community. In that sense, the strengthening of the bodies that run official data is necessary, as well as the involvement of women, girls and civil society in the management of those informations;
- To invest in the production and dissemination of disaggregated official data (by race, ethnicity, age group, sexual orientation, location, etc.), that is a strong ally in combating disinformation, as it ensures an accurate depiction and strengthens women's movements and their intersectional agendas.
- Strengthen regulations and oversight mechanisms to hold platforms accountable for the spread of gendered disinformation, while also protecting freedom of expression and avoiding undue censorship;
- Ensuring accountability for public and private actors who intentionally disseminate false and harmful information against women and girls.
- Enhance collaboration and information-sharing between government agencies, civil society organizations, and technology companies to develop effective strategies and policies for combating gendered disinformation.

Technology companies and social media platforms:

- Implement stricter enforcement policies and guidelines against gendered disinformation, including the removal of harmful content that perpetuates stereotypes, incites harassment, or promotes discrimination. That should be carefully thought in a way that it does not enable marginalized groups from contributing and participating on the digital public sphere.
- Demonetization of channels and users on platforms that intentionally disseminate gender-based disinformation.
- Enhance transparency and accountability by providing regular reports on measures taken to combat gendered disinformation, as well as engaging in consultations with civil society and affected communities.

#### ii. What issues or areas of gendered disinformation require further research in your opinion?

One of the main aspects that enable the access to information in Brazil is the difficulty to articulate policies aiming access to information at regional and local level. That is because, in the Country, state and municipal legislative and executive powers have a large prerogative to propose public policy, which has been mobilized to promote disinformation through institutionality, in some cases. The information related to legal abortion is also a great example on that matter, once municipalities have been promoting municipal laws that regulate how the access to information related to the procedure or to the offering of public policies, in a disinformative way. In that sense, there is a concrete need to better understand how gendered disinformation has spread in the country - sometimes in an opposite way of what is proposed at federal level. Further research could reach this important gap in the guarantee of the right to access to information and the combat to disinformation, for women, girls, and LGBTQIA+ community.

**iii. Please provide references or links to relevant research or reports.**

ARTICLE 19. Restrictions on the right to abortion: A global shift?:  
<https://www.article19.org/resources/restrictions-on-the-rights-to-abortion-a-global-shift/>

ARTIGO 19. Legal Abortion Map (Mapa do Aborto Legal, in portuguese):  
<https://mapaabortolegal.org/>

ARTIGO 19. “10 years of Access to Information Law Report: from where we came and where we are going” (Relatório “10 anos da Lei de Acesso à Informação: de onde viemos e para onde vamos”):  
<https://artigo19.org/2022/05/16/lei-de-acesso-a-informacao-lai-faz-10-anos-em-clima-de-des-monte-e-em-risco/>