

**SUBMISSIONS: THEMATIC REPORT TO THE UN HUMAN RIGHTS COUNCIL "SOCIAL  
PROTECTION: A REALITY CHECK"**

**INPUT FOR THE "SOCIAL PROTECTION: A REALITY CHECK" REPORT**

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**ABSTRACT**

Brazil has large territorial and population extension where women and brazilian-african descent correspond to the largest number of people in extreme poverty and in informal jobs.

The rising corruption and organized crime (mafia) affects all levels and institutions. The Judiciary corresponds to the most corrupt institution in the country where judges have high and unproven income source. Mafia in the Judiciary sell sentences and judges head embezzlement mafia using false processes to rob and kill people by cleaning the bank accounts or public funds. Corruption coupled with the misogyny prevalent among magistrates exclude women, brazilian-african descent and children from constitutional protections, increasing inequality and vulnerability resulting in high levels of domestic violence and human trafficking.

Since 2019 the genocide against women and children was increased: femicide kills more than twice as many women compared to men. Also this number is growing.[1]

This document explains the relationship between corruption within Brazilian legal institutions, femicide and domestic violence that justifies the concerns on brazilian women and children genocide as much as indicates good practices to promote just, peaceful and strong institutions for inclusive societies, Goal 16, United Nations Sustainable Development Goals (SDGs).

**INTRODUCTION**

We cannot hope for sustainable development without peace, security, stability, human rights and effective policies based only in the rule of law once law is building by people taking turns in the governance. Nowadays, we see the countries as unequal centers because while some regions has peace, security and prosperity others fall into cycles of conflict and violence such as Brazil where social and economic instability and organized crime of drugs, arms and people has the brazilian judicial institutions as a friend to promote and facilitate the actions.

These brings the destructive impact affecting economic growth and contry's development so much as concerns about **female genocide** due to sexual violence, crime, exploitation and torture are prevalent in Brazil where is reasonable to affirm that there are rule of the law but judges violate them. [2]

Considering the international social responsibility and peace seeking, the countries enjoying peace, security and prosperity must take measures to protect those around the world who are at risk once it isn't a problem without solution.

Brazil is a country with a large territorial extension and 213.3 million inhabitants: 54% brazilian-african descent. About gender, 54.5% of women start working when are children, 13-15 years old. Informality in the workforce reached 41.6% of workers in the country (2019) who women and brazilian-african descent accounting for the majority of informal workers.

The corruption and bribery are in the culture, business, social life and governmental insitutions at all levels where the Judiciary was assessed as the most corrupt so much as dangerous brazilian institution due to it has one of the lowest levels of transparency at the same time they all **magistrates and judges are unattainable**; 76.48% of judges have high and unproven income as well the control of the others governmental institutions: Legislative Power and Executive Power. [3]

All variations of crimes are increased by corruption and bribery called as " Mafia of robe" (in portuguese: **Mafia da Toga**): arms, drugs and persons. Considering the **femicide kills more**

**than twice as many women compared to men** and that relates to domestic violence where men use torture and rape as the form to perpetrate the its control, the brazilians females are under genocide risk. [4]

The violence against women is harmed by Covid-19 pandemic since is meaningful scenario for the corrupts enjoy human vulnerabilities [5]. Thus, on May 27, 2020, the United Nations, UN Women and WHO declared **violence against women as second pandemic** by the shadow of Covid-19. [6]

This overview includes the prevalent misogynists behavior coming from Police Department, Public Prosecution and Judges, it means brazilian women cannot count with the Judicial Institutions to protect them when police, laws and policies are failed and this path explains the number of **1/3 of femicide ocurred in 2020 only because they were women**. [7]

#### **COMMENT**

The **sentence sale scheme** is one of the mechanisms that fuel organized crime and institutionalize corruption and bribery. This scheme is officially reported as Mafia of robe (in portuguese: Máfia da Toga). [8]

The Toga Mafia's actions aim to control and to perform the laundering money to fuel the terror industry. A lot of money is resulting from this scheme that involves police, lawyers, politicians, prosecutors and judges and reaches high levels in governmental institutions as STF, the Brazilian Supreme Court. [9]

This affects women at different ways:

**a)** women who are financially vulnerable or threatened by the partners that they are living or married, are forced to work for drug trafficking or they are sexually exploited. Within drug trafficking, men protect each other and women end up dead or imprisoned;

**b)** emerging laws in order to weaken the female guarantees. Since 2019, laws have emerged aimed at weakening the Maria da Penha Law or creating regulatory niches that exclude women from social services and work. Special laws emerge recognizing women as vulnerable but as wicked sense, these laws exclude the crime judgment from punishments foreseen in the Penal Code to be analysed under special laws that establishes impunity or mild punishments to men perpetrators when women are the victims; [10]

**c)** extreme poverty. When women try to get out of domestic violence through divorce, judges turn over all properties and assets to the men. The debts remain with women and executions procedures do women unbanked. The stigmas removes women from social life and access to employment. The judnes deny to women the legal guaranthees and human rights. [11] [12]

**d)** misogyny is prevalent in the Police Department. When women go to denounce men for any crime, women are threatened with prosecution by the delegates authorities. In the Women's Police Station, the delegates are women and they also persecute women victims. The women are unable to report the attacks or gather the supporting documents to evidence of crime and when it comes into the judges and prosecutors, the sentence is for "a lying woman" because she has no evidence. Evidence and arguments that delegates banned of the attachments.

The Women's Police Station was created to protect and guarantee the rights of women as human rights brazilian initiatives. It was definied that women should be delegated authorities, agreeing with the idea that misogyny would be prevalent only in men population.

These mindset lead us to wrong way since the brazilians newspapers and reports display that women as delegated authorities violently react against women who go to the police stations for help because the misogyny is prevalent among the women delegate autorities as well.

Among the countless cases of Brazilian women affected by the misogyny into judicial institutions, one case stood out to highlight the above facts: Mariana Ferrer case. Mariana was raped and later humiliated by judges, lawyers, public defenders and prosecutors during the trial hearing. When she cried, they called her as false and liar. As for the rape, the sentence expressed the young woman's guilt for working in a bar and established impunity for the male perpetrator. These behavior among judges is commom in Brazil but the remote form makes the trial opened to female society that expressed the horror.

This fact came up as justification for creating the MARIANA FERRER LAW (**Law 14. 245/2020**) to hold judges accountable when not protecting the dignity of women at trial hearings and during rape and domestic violence processes but it doesn't solve the problem at women's human rights because there is no external control for the acts of judges. For this reason, judges consistently ignore laws like this and never will be punished.

Obviously it shows how the corruption, bribery and organized crime enjoy the Brazilian systems.

The Maria da Penha Law (Law 11.340/2006) is a contemptuous violation by judges who choose not to apply the guarantees for women victims or they give a different legal interpretation that didn't reach the one intended by the law. This results in a grave violation of human rights that exposes women and children to a Pandemic of Domestic Violence and human trafficking through practices that promote genocide, **United Nations General Assembly (A/RES/96-I)**.

Thus, this paper approaches on how the genocide against women has been taking place in Brazil at a silent way. Silence is imposed by fear, threats, poverty and femicide.

The implementation of specialized police assistance for women, in particular at the Police Stations for Assistance to Women (DDM) in Brazil means a guarantee in the Maria da Penha Law which should bring human rights to women, **Art. 8, IV, Maria da Penha Law**.

Unfortunately, the misogyny in women delegates response has created a niche where the victims face insurmountable obstacles to receiving relief. Currently, there is no other place that women can ask for help because when they go to general service police stations, they are redirected to the DDM (always). DDM became a niche for treating second-class and worthless citizens: women. **[13]**

The immediate divorce is an urgent protective measure in the **MARIA DA PENHA LAW** (injunction in law), which the judges interpret from wicked-behavior, **article 18, II**. When immediate divorce, the assets and properties don't come together. The property sharing will be consigned to later time, which will take place in the Common Court without the protection of the Maria da Penha Law because the divorce has already taken place. Through the immediate divorce the men are in possession of the house and money and women go to the streets or shelters. Women are stigmatized and lose their jobs.

These remain as Brazilian culture within the judicial institutions that allow patrimonial violence against women that the rule of law isn't enough to solve. Including execution actions promoted by banks or creditors and the judge doesn't summon the offending husbands. Only women are subpoenaed. The judges start to persecute them denying the right of defense. Women are executed and thrown into informal work because they lost the access to receive formal payments since their bank accounts are under unfair and judicial control that makes women as unbanked and without commercial credibility. It will be worst when women pertain to privileged social status because they have more money that could be stolen by these cycles.

The Protective Measures (injunction) in the Maria da Penha Law doesn't inhibit the offenders, therefore, doesn't protect the woman's life because the offenders aren't afraid of the Judiciary due to their trust on the impunity that is sponsored by judges those who have the moral and functional duty at: not to impose defense obstacles and protect the established vulnerable persons by law that is the case for women and girls.

In order to correct this distortion on procedures, Law 13.641 of 2018 emerged. What does law say?

Before this law, when the Protective Measure of the Maria da Penha Law was violated, the registration by the police authority was forwarded to Judiciary Institution, where the judge would analyze the case, replacing the measure or, in case the request of the Public Ministry or police authority, decree the preventive detention of the non-compliance with the order. Therefore, the police chief could not to repress the offender without a new suit.

This would generate long suit, months or years. Thus, Law 13.641/2018 established that in case injunction is violated, the police authority must arrest the offender once this man repeated bad behavior and already convicted.

Unfortunately, in DDM, women as delegated authorities still ignore this law and threaten women victims so much as doesn't attach the evidence in the police procedure. Consequence: they

continue to generate new requests to open an investigation which can last for years and women end up killed by the aggressor or by poverty resulting from patrimonial violence.

## **CONCLUSION**

These are conditions to explain the poverty among women becomes the rule in addition to encouraging femicide. Women are such as objects for husbands, public institutions and criminals to make profits and rising money. And women will be killed when they are not useful.

Once remains laws and public systems to promote misogyny and femicide as well as the lack on transparency into judge's acts and judicial institutions we see the genocide in Brazil against females by happening under silent international social responsibility.

The international social responsibility must bring relief through establishment of human rights that highlights women, children, indigenous and afro-descent at genocide risk and to promote the external control body to judicial institutions, goal 16. There is a list with corrupt judges enjoying the impunity once they remain holding its position and receiving high compensations/salaries. Also part of these compensations/salaries have not source income. When they are exposed, they are judged and the sentence means a prize: retirement with high compensations forever because they are unachievable by the law or control. **[14]**

This scenario calls for more action on Goals: 5, 10 and urgently 16.

Some measures that could be helpful:

**1.** A glance on admissions to international bodies when representatives are coming from countries on high level of corruption as Brazil due to, most of them take high positions because they come from systems to promote corruption, bribery and money laundering as far as it avoids professionals that are reliable in the international bodies. **[15] [16]**

Public tenders are defrauded to allow the choice of "court friends" alone and keep the harmful system.

**2.** Workshops, training and programs that involves judges to eliminate corruption, bribery and money laundering in the Judiciary

**3.** Establish a specific international body as "**external control body**" for judgement of the conduct in order to hold personal responsibility to judges for acts that violates human rights. The current system of holding the State accountable for the conduct of judges has no effect on eliminating the " Mafia of robe" .

**4.** Education: to promote classes in fundamental education on Human Rights and especially on corruption, bribery and organized crime so much as on protecting vulnerable people.

**6.** Empowering women leadership on protection of vulnerable people who doesn't come by political choice to prevent criminal organizations from continuing to receive government positions.

**7.** Establish a program to reward Brazilian judges who deliver sentences where there is no violation of human rights when in judgment of cases on rape, pedophilia, domestic violence or cases where the victim is vulnerable such as brazilian - african descent people. Highlighting good measures exposes corrupt judges and rise the awarness on to avoid the impunity of corrupt judges at all levels.

**8.** A review in the rule to deploy women as delegate authorities in DDM. Since misogyny is prevalent in the institutions, this role should stay under merit and not under the gender. Who shows the merit to avoid domestic violence and all crimes against women, children, brazilian-afro descent should be at this role.

The future of women, children, indigenous and brazilian- afro descent relates to the end of organized crime to avoid them to reach governmental role as authorities and to the end of misogyny coming from laws, institutions and policies.

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