

WHRC BRAZIL – LETTER TO THE UN

Your Excellencies, we, from the Campaign for Women's Human Rights Brazil - WHRC Brazil, who are a supra-partisan, suprareligious and international initiative, reaffirm through this letter the importance of maintaining women's rights based on sex. The new "gender policies", as they are called, have contributed to the erasing of demands and the dismantling of the indispensable rights already won by women throughout our history. In recent years, without consulting the female population and even with hostility towards women who raised criticism about this issue, several policies based on "gender identity" have been implemented in Brazil and in the world, demanding the substitution of the biological sex criteria, by the "gender identity" criteria in the definition of men and women.

Countless studies and statistics in Brazil and in several other countries confirm the situation of inequality in which girls and women live. For this reason, there are legislations and public policies aimed at them. All over the world, the violations were and are so many that the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** was created and adopted by the **General Assembly of the United Nations** on December 18, 1979, developed in the **General Recommendations of the CEDAW Committee**, and coupled, among others, to the **United Nations Declaration on the Elimination of Violence against Women of 1993 (UNDEVW)**.

Article 1 of **CEDAW** defines discrimination against women as meaning:

“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

CEDAW imposes on the States Parties the obligation to “*take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women*” (Article 2 (f)); and to take, all fields, “*all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.*” (Article 3). It is statistically proven that the female population lives at a systematic disadvantage compared to the opposite sex. This is why, although women make up half the planet, in countries that purport to be democratic, the female population is recognized as a sexual minority and specifically protected by legislation. In addition to our biological specificities, we experience specific difficulties and violence such as maternal mortality (which killed 810 women per day in 2017 from predictable and preventable causes); our country ranks fifth in the world in femicides, with more than 60,000 cases of rape recorded in 2017 alone (8.4% more than in 2016, with 70% of the victims being female children and adolescents and most do not report; it is estimated that only 10% of cases are reported) and is the fourth in the international ranking of pedophilia on the internet.

Our organization points out the mistake of using both categories (sex and gender) as synonyms, and reiterates that the expression “gender identity” does not have full social, scientific or academic acceptance to support its legal protection. Ultimately, there is an attempt to introduce a new legal term of interpretation, which ignores the conceptual particularities existing between “gender” and “sex”. The erasure of the female sex takes on a political significance, since women not only share a common characteristic, biological sex, but also constitute a historically and geographically oppressed group. It should be settled in the year 2021 that one group cannot be compulsorily and ideologically renamed by another, particularly when we are talking about a subordinated group and when this renaming is being practiced by individuals who, for the most part, are part of the sexual class that benefits from this oppression and who commit almost all the acts of violence against the oppressed group and against other individuals from the oppressor group.

In the case of Brazil, this erasure has even more serious results, since our country, sadly, has alarming levels of violence against girls and women. If we cannot define ourselves, we cannot protect ourselves, defend our hard-won rights, or create others; all of our specific rights recognized in law were based on material definition, as well as all those that will be created should

be. The redefinition based on self-identity contradicts not only our physical reality but also theories, academic analyses, and already consolidated publications about the feminine condition in the country and in the world, besides compromising ongoing research and the collection of statistical data about the female population, putting at risk researchers involved in initiatives specifically aimed at the public in question. The aforementioned criminalization of "transphobia" enables the legal penalization of any individual or group that points out, questions, or even analyzes the immense range of problems brought about by these new personal beliefs and legal changes; these people, usually women, are vilified as "transphobic," "biologizing," "intolerant," and "genitalist" for insisting on safeguarding their rights and reaffirming their humanity. The alleged subjective feeling of womanhood, in practice, translates into the denial of the immense diversity present in the class formed by girls and women. The explanations made by men who claim to be "trans" because they liked playing with dolls in childhood, wearing makeup, and longed for long hair and dresses, peremptorily ignore the many girls and women who didn't like any of it; similarly, women who deny that they are women make references to items culturally associated with men but which do not represent all men. In other words, "gender identity" politics ignore, or pretend to ignore, that while biological sex is *descriptive*, "gender," as stereotypes culturally assigned to each sex, is *prescriptive*: the former describes the potential capacity of an organism to produce the gamete egg or sperm (and the form that organism will take based on this differentiation). The second, on the other hand, prescribes the social roles of each.

The majority of those who affirm to belong to the opposite sex are biological men who after a certain point in their lives identify as transsexual, transgender, transvestite, "nonbinary," and other "genders. We understand that non-standard men can be discriminated against and assaulted (either for using items culturally associated with women, or for having had body modifications, or based on their real or assumed sexual orientations by the aggressor) and we reinforce that we agree with protection policies for men who are in a vulnerable situation. However, we know that this hostility does not happen for the same reasons as the violence committed against human females; it is not because they are "perceived as trans women" but because they are seen as men outside of the male standard. The redefinition of womanhood turns any analyses and policies made for and by women into those made for and by men, with other parameters and agendas; as it becomes clear in the sports debate, with women who claim to be feminists failing to protect the rights of their equals. Countries where legislation on "gender identity" advanced first, such as the United Kingdom, Canada, and the



United States, are currently re-discussing the issue because, as we had warned, girls and women have been harmed in the most varied ways, including being raped in prison cells and women's shelters that should protect them. In Brazil, achievements such as the Maria da Penha Law and the Femicide Law, which were based on the hierarchy between the sexes, have already been weakened by the inclusion of men who declare themselves women and this has harmed women; for example, if a woman who declares herself a man and a man who declares himself a woman commit reciprocal bodily harm, the man will have the right to the Maria da Penha Law and the woman will not. In another hypothesis, if a mother has an argument with her son and he identifies himself "as a woman", the mother will be treated more harshly by the law than if he were recognized, at least for these purposes, as a man or a third category that may have been created.

We are currently preparing a large document about the "gender identity" policies in Brazil. **We have already filed petitions on two of these policies, which, by destroying sex-separated spaces, increase our vulnerability to violence and therefore disrespect article 4 (g) of the UNDEVW:** *"States should "[w]ork to ensure, to [w]ork to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation."*

The first requirement concerns the accommodation of men in women's prisons; we mobilized this particular topic because of a court decision that occurred in March/2021, establishing that self-identified men can serve time in women's penitentiaries. Although this was already occurring in some cases, a decision of this magnitude mobilized us, since it puts at risk the safety of all Brazilian female prisoners. Thus, we filed a representation, based on scientific and journalistic articles, with the Attorney General of the Republic requesting that the biological sex be the only criteria for allocating a person to a female prison. The representation of the prisons was also sent to the Minister of the Supreme Court of Justice, Min. Luiz Fux, to the Minister of the Federal Supreme Court, Min. Luiz Roberto Barroso, to the Minister of State of Women, Family and Human Rights, Min. Damare Alves and to the Minister of Justice and Public Safety, Min. Anderson Gustavo Torres. We also sent a copy of the representation to federal deputies

and senators. The second request was due to the possibility of criminalizing citizens who try to protect sex-segregated spaces, such as women's restrooms, and was addressed to the Attorney General of the State of Alagoas. In that state, a criminal action is underway to convict for the crime of "transphobia" the employee of a shopping mall who tried to restrict the entrance to the mall's restrooms to girls and women.

Such questions have been asked over the years by women all over the world and have given rise to the **Campaign for Women's Human Rights**, which seeks recognition for the **Declaration on the Rights of Women Based on Biological Sex**, whose nine articles we transpose below:

"Article 1: Reaffirming that the rights of women are based upon the category of sex. States should maintain the centrality of the category of sex, and not 'gender identity', in relation to women's and girls' right to be free from discrimination.

Article 2: Reaffirming the nature of motherhood as an exclusively female status. (a) The CEDAW emphasises the "social significance of maternity", and Article 12 (2) states that "States Parties shall ensure to women the appropriate services in connection with pregnancy, confinement and the post-natal period".

Article 3: Reaffirming the rights of women and girls to physical and reproductive integrity

Article 4: Reaffirming women's rights to freedom of opinion and freedom of expression

Article 5: Reaffirming women's right to freedom of peaceful assembly and association

Article 6: Reaffirming women's rights to political participation on the basis of sex

Article 7: Reaffirming women's rights to the same opportunities as men to participate actively in sports and physical education

Article 8: Reaffirming the need for the elimination of violence against women

Article 9: Reaffirming the need for the protection of the rights of the child".



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This is indeed a delicate subject, but one that must be discussed with transparency and courage. Although many groups strive to stifle the voice of women and girls, our organization fights day and night so that our rights are not transgressed by vague policies that lead to the erasure of our claims, which are based on our material reality.

It is not easy to speak publicly about this issue, knowing that people who dare to tell the truth can say goodbye to their political, academic, and artistic careers; they will lose funding, sponsoring and positions; the companies and agencies they are part of can be pressured to fire them. However, if some of us don't "stick our heads above the parapet", nothing will change. We hope that this letter opens the way for an honest discussion and that our rights will be protected.

Rio de Janeiro, July 30, 2021

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