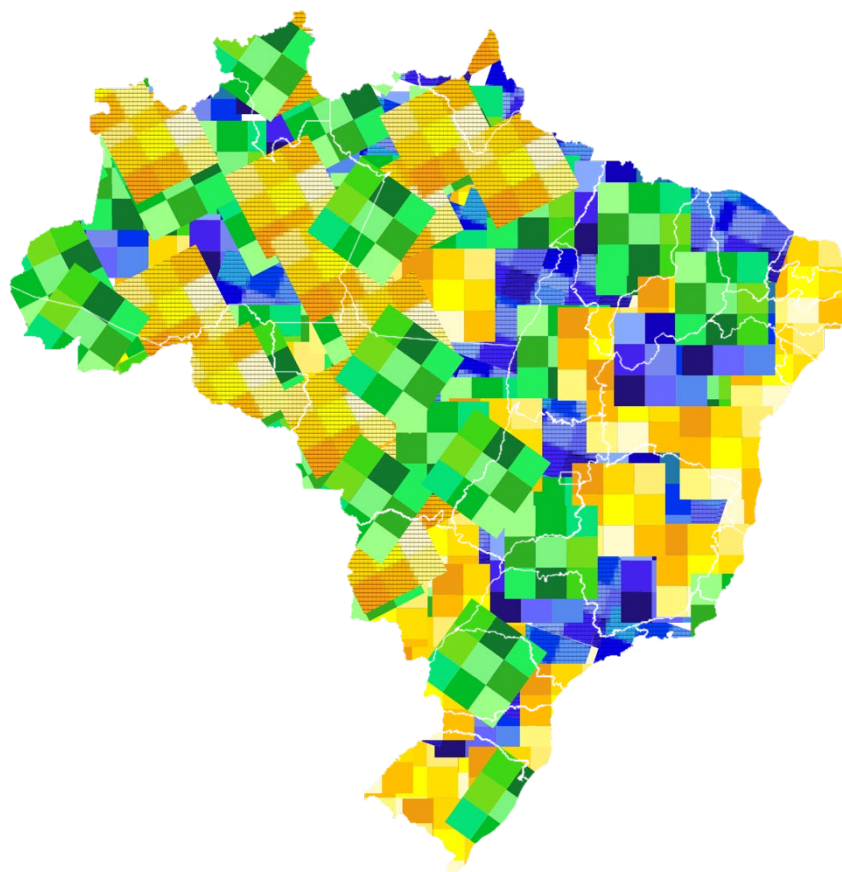


Submission to the Committee on the Elimination of All Forms of Discrimination against Women

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Executive Summary

In response to the Committee on the Elimination of Discrimination against Women's (CEDAW) request for information regarding measures to eliminate gender discrimination in Brazil's labour market, including any disproportionate negative impacts of austerity measures and fiscal policies on women, the Brazilian government's State Party Report submitted in March 2022 failed to address fiscal policies or austerity measures. This omission represents a significant accountability gap in the government's duty towards women in Brazil.

This document addresses this gap by examining how austerity measures and regressive fiscal policies directly impact women's rights in Brazil. Additionally, it situates Brazil within the context of international tax policy and ongoing negotiations within the United Nations Framework Convention on International Taxation.

Finally, the document offers recommendations aimed at contributing to tax reforms that prioritise women's rights, considering the persistent racial inequalities within the country. These recommendations aim to foster a more equitable tax system that supports women's economic empowerment in Brazil.

Lastly, we would like to highlight that this report was only made possible due to the over twenty feminist organisations who participated in the CEDAW Shadow Report Workshop (organised by INESC, the Tax Justice Network, Latindadd, and Red de Justicia Fiscal para America Latina y Caribe in December 2023). Their extensive expertise and insightful inputs were crucial to the construction of this report.

Introduction

In the List of Issues Prior to Reporting from November 2020, the Committee asked Brazil to “provide information on the steps taken to address the elimination of discrimination against women in employment, including...any disproportionately negative impact of austerity measures and tax policies on women”. However, the State Party Report submitted in March 2022 made no mention of tax policies or austerity measures, representing a gap in the State Party’s reporting and its duty to the women of Brazil.

As a study from the State University of Campinas (Unicamp) points out: “Brazil has chosen the path of reducing the distributive power of fiscal policy and increasing inequalities”.¹ Since 2016, with the approval of the “Constitutional Amendment 95” more commonly referred to as the “expenditure ceiling”, Brazil has been operating in a state of austerity, choosing regressive tax policies and economic measures. Between 2015 and 2017, expenditures that specifically benefitted women were reduced by 58 percent, and specialised services offered to women suffering from violence were reduced by 15 percent. In 2018, UN

¹ ‘Why Brazil’s Permanent Austerity Policy Is Harming Its Economic Future’, *openDemocracy* <<https://www.opendemocracy.net/en/oureconomy/why-brazils-permanent-austerity-policy-harming-its-economic-future/>> [accessed 31 August 2023].

human rights experts urged Brazil to reconsider its harsh austerity policies and design its economic policy around the human rights of its population. Experts noted that the child mortality rate had risen for the first time in 26 years as the financial and fiscal policy decisions affected the enjoyment of many fundamental rights and that “women and children living in poverty are among those hit hardest”. Their conclusion stated that “achieving macroeconomic and growth targets cannot be at the expense of human rights: the economy is society’s servant, not its master.”²

Austerity measures and regressive tax policies particularly affect women, who are more likely to be employed in the public sector and to require and utilise essential public services and social programs. As public spending cuts eliminate public sector jobs, cap public sector salaries, and eliminate essential care and support services such as childcare, healthcare, and elderly care, women find themselves underemployed, unemployed, or burdened with further unpaid care work to compensate for the lack of a social safety net. Additionally, when compounded with entrenched patriarchal norms that affect household decision-making, and sometimes with high levels of gender-based violence within the home, the lack of economic power and social protection created by austerity policies often keeps women in environments that restrict the enjoyment of even their most basic human rights.³

For example, at the beginning of the Covid-19 pandemic in 2020, when rules for public bidding contracts were relaxed, only 29.45% of the authorised resources for addressing domestic violence were spent.⁴ At that time, women needed support from the State more than ever, as their living conditions worsened in general, and given the increase in domestic violence, as many girls and women had to undergo social isolation with their aggressors.⁵ After the most critical period of the pandemic, there was a slight reduction in the femicide rate, by 2.4%, according to the Atlas of Violence (2021), but there was a 3.7% increase in reported rape rates.⁶ In 2022, however, according to the Atlas,⁷ femicides grew by 5% in comparison to the previous year. In this context of increasing violence against women, in 2021, the budget for addressing it was 45% lower than in 2020 and 17% lower than in 2019. During the same period, there were no measures to reduce food prices or public policies for access to medication.

In this report, we explain the domestic context of Brazil’s tax system, including recent reforms, and explore the effects of Brazil’s austerity measures and regressive tax policies on women’s human rights, especially black women. We then discuss Brazil’s place within the global tax system and the impact of corporate tax abuse and tax abuse by wealthy individuals

² ‘Brazil Must Put Human Rights before Austerity, Warn UN Experts as Child Mortality Rises’, *OHCHR* <<https://www.ohchr.org/en/press-releases/2018/08/brazil-must-put-human-rights-austerity-warn-un-experts-child-mortality-rises>> [accessed 31 August 2023].

³ Juan Pablo Bohoslavsky, *Impact of Economic Reforms and Austerity Measures on Women’s Human Rights* (18 July 2018) <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/229/04/PDF/N1822904.pdf?OpenElement>> [accessed 1 September 2023].

⁴ INESC (2023). Nota técnica: Análise do Orçamento de Políticas Públicas de Enfrentamento à Violências contra as Mulheres (de 2019 a 2023). Brasília.

⁵ Fórum Brasileiro de Segurança Pública (2023). *Atlas da Violência 2023*. Rio de Janeiro: IPEA

⁶ Samira Bueno, *Violência contra mulheres em 2021* (São Paulo, SP, 2023).

⁷ Fórum Brasileiro de Segurança Pública (2023). *Atlas da Violência 2023*. Rio de Janeiro: IPEA.

in Brazil. We also touch on Brazil's participation and cooperation in global efforts to create a more inclusive framework to regulate international taxation within the auspices of the United Nations. We then target specific harmful policies and measures within Brazil's tax policy before making recommendations on how Brazil can address the issues presented and create a tax system that promotes and centres women's rights and advancement.

Part A: Domestic context in Brazil

Brazil is a country with deep class, gender, and race inequalities.⁸ The current tax system does not contribute to reducing such inequalities, as it is highly regressive. Data from the World Inequality Database (WID, 2022) ranks the country in the 17th position globally in terms of income inequality. Its heavily ingrained patriarchal system perpetuates gender inequalities: women earn less than men, are responsible for unpaid care work, and are underrepresented in the political sphere and its resulting policies. Structural racism intersected with sexism ensures that black women experience the worst social indicators in the country.⁹

In this scenario, a tax reform based on solidarity, sustainability, and human rights is urgently needed: solidarity-based in order to reduce poverty and inequalities; sustainable in that it contributes to the green transition; and centred on human rights, prioritising health and life. These three pillars must be intersected to achieve gender and racial equity. After ten years in the National Congress, the Chamber of Deputies finally approved a tax reform bill in July 2023 that contains positive points for women, such as the creation of a cashback policy and exemption of tax for menstrual products including for the (still to be determined) national basic basket. However, the text referring to gender and race markers was removed from the cashback policy. Black women are proportionally more burdened with indirect taxes. At the same time, the state uses gender and race markers to carry out affirmative public policies - segmentation made possible by the National Census - making it essential that such data be used to focus the rules of a new tax system.

After ten years in the National Congress, in July 2023 the Chamber of Deputies finally approved a tax reform bill that contains positive points for women, such as the creation of a cashback policy and a tax exemption for menstrual products and for the (still to be determined) national basic basket. However, the references to gender and race demographics were removed from the cashback policy, even when black women are proportionally more

⁸ Tax Justice Network and Instituto de Justiça Fiscal, *Submission to the Committee on the Elimination of Discrimination against Women: 79 (Virtual PSWG) Pre-Sessional Working Group 09 Nov 2020 - 13 Nov 2020, 2020* <[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://taxjustice.net/wp-content/uploads/2021/03/Brazil-TJN_IJF-79th-PSWG-04-12-October.pdf](https://taxjustice.net/wp-content/uploads/2021/03/Brazil-TJN_IJF-79th-PSWG-04-12-October.pdf)>.

⁹ INESC (2023). *Distributional impacts of taxation and public cash transfers: a look at gender and race*. Instituto de estudos socioeconômicos. Brasília.

burdened with indirect taxes.¹⁰ The state should use social indicators such as gender and race to carry out affirmative public policies and inform the rules of a new tax system.

The Senate reforms, approved at the end of 2023, will in its final form, be highly influenced by the complementary legislation which is due to be discussed during 2024.¹¹ The tax reform approved is still insufficient to address the structural inequalities of the Brazilian tax system, as it fails to present proposals to improve the progressivity of income or wealth. This means that even after the approval of the constitutional amendment, the low-income population, black people, and women will continue to be the most disadvantaged by the tax system. There is still a need to increase taxation on income and assets, to better regulate the way large fortunes are taxed, and institute a tax on dividends, among other recommended changes. We urge Brazil to look towards a genuinely progressive income taxation system that considers the many intersecting inequalities and disadvantages experienced by women in the country, predominantly black and low-income women.

A tax system based on sexual and racial discrimination

In 2014, INESC published an unprecedented study in Brazil, developed by Evilásio Salvador¹² per cent of the population spent 32 per cent of their income on taxes. By comparison, the richest 10 per cent only spent 21 per cent. Gender and race inequalities appeared when unfolding the data for each population group. Thus, among the poorest 10 per cent, 68.06 per cent were black and 31.94 per cent were white, 45.66 per cent were men and 54.34 per cent were women. Of the richest 10 per cent, less taxed in proportion to their income, 83.72 per cent were white and 16.28 per cent black. In this category, 62.05 per cent were men and 31.05 per cent women.

This study was important for the political advocacy of feminist and black movements in Brazil, as it drew attention to a problem that had been invisible until then. It underlined that tax injustice drives the intersectional biases of racism and sexism.

In 2023, INESC launched a new study, prepared by researchers Luana Passos, Fernando Gaiger and Matias Rebello Cardomingo.¹³ Although the methodologies are different, the results show that this scenario has not changed much in 10 years. This can be explained precisely by the absence of a broad and structural tax reform, but also by the lack of effective public policies that would reduce social inequalities. As presented in Figure 1, the population in the first income quintile (the poorest 20 per cent) has a tax burden of 21.3 per cent, while

¹⁰ INESC (2023). *Distributional impacts of taxation and public cash transfers: a look at gender and race*. Instituto de estudos socioeconômicos. Brasília.

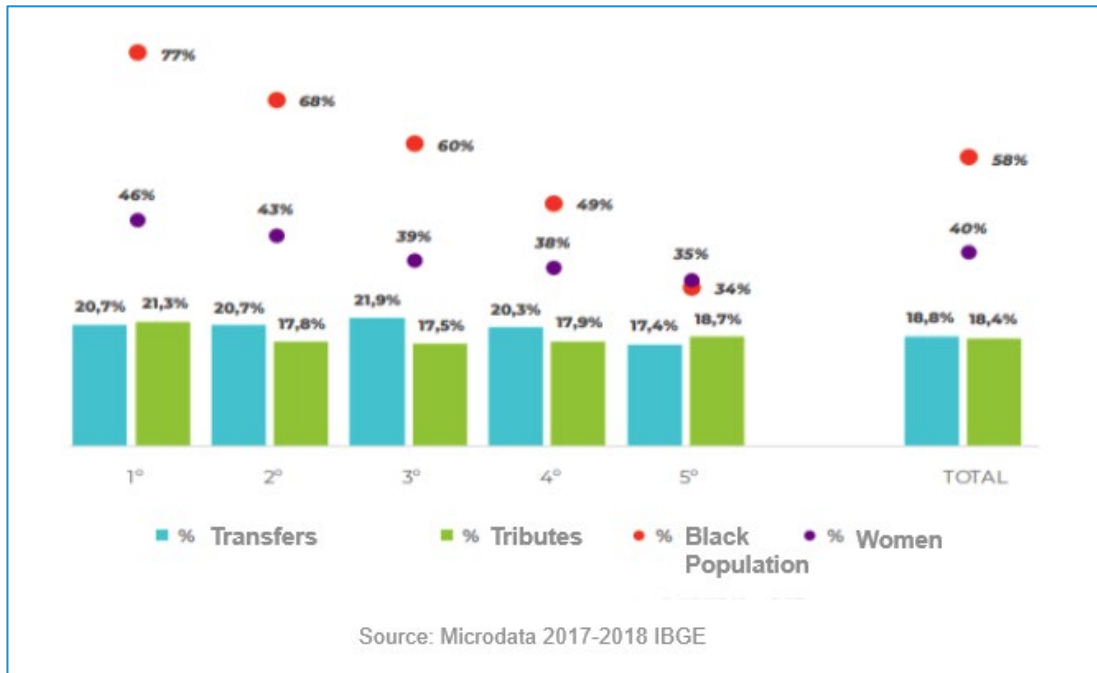
¹¹ *Regulamentação da Reforma Tributária Chegará ao congresso na Próxima semana*. Senado Federal. (2024, April 8). <https://www12.senado.leg.br/noticias/materias/2024/04/08/regulamentacao-da-reforma-tributaria-chegara-ao-congresso-na-proxima-semana>

¹² Salvador, E. (2014). *As implicações do sistema tributário brasileiro nas desigualdades de renda*. INESC—Instituto de estudos socioeconômicos. Brasília.

¹³ INESC (2023). *Distributional impacts of taxation and public cash transfers: a look at gender and race*. Instituto de estudos socioeconômicos. Brasília.

the wealthiest 20 per cent are burdened by 18.7 per cent. This is very inequitable given the average incomes of R\$ 311 and R\$ 5,268 per capita per month, respectively. Again, about 77 per cent of the population in the first quintile is in households headed by black people compared to a share in the population of 58 per cent.

Figure 1: Incidence of taxes and transfers on income and participation of families headed by black people and women, according to quintiles of per capita family income.



Source: [Distributional impacts of taxation and public cash transfers: a look at gender and race - INESC](#)

In the poorest half of the Brazilian population households headed by black men or women are overrepresented, and similarly, women are overrepresented in the poorest half. The findings of this research show that, in general terms, the tax system penalises black people and women, due to their position in the income distribution.

Indirect taxes are regressive, as they disproportionately affect the most disadvantaged groups. Direct taxation, which is progressive and therefore more onerous for historically privileged groups, such as white people and men. Nonetheless, their use in Brazil does not completely mitigate the deeply iniquitous character and extensive use of indirect taxation.

Although the Brazilian tax system is not directly racist and sexist, its design enables and perpetuates greater reductions in the income or purchasing power of households headed by women and black people. In other words, current tax policy does not provide an adequate mechanism for correcting existing inequalities and supporting the realisation of women's economic and social rights.

The dismantling of policies that promote racial and gender equality

According to the Household Budget Survey 2017-2018,¹⁴ monetary transfers are pro-women, representing 24 per cent of the income of women-led families, compared to 19 per cent in the average population. There is relative homogeneity in the share of cash transfers in families headed by women by income levels, due to the presence of assistance and social security benefits in all quintiles of per capita family income. However, transfers have a greater positive impact in families headed by black people.

Cash transfers should not be the main tool to support access to human rights, they must be aligned with the provision of public services. However, in 2019, with the election of Jair Bolsonaro to the Presidency of the Republic, Brazil has only further entrenched the severe austerity policies initiated in 2014. The government dismantled social policies to comply with the Spending Ceiling, a trademark of 2014 austerity measures legislation, and a rights-reducing policy. Such dismantling aggravated the enormous distances that separate women from men and black people from white people.

Health, education and social assistance are being de-funded year after year. The budget available for cash transfer benefits during the Covid-19 pandemic lifted more than 4 million black women out of extreme poverty.¹⁵ After the programme was wrapped up it was still left with a surplus of 80.7 billion reais.¹⁶ If the government had spent all the resources allocated to this programme, millions more women could have been assisted. This policy retrogression reflects both a failure to meet the obligations set out in CEDAW (Art, 10, 11, 12 i.e. health, education, social assistance) and the government's obligation to introduce and implement tax laws, policies and systems that serve to "maximise" all "available resources". (ICESCR, Article 2(1) (1966).

The women's policy implemented by the Bolsonaro government abandoned the perspective of women's plurality and diversity, bringing a generic vision linked to family roles and an explicit position against sexual and reproductive rights. All these changes were made without consultation or any kind of input from women, users of public services, beneficiaries of policies, or employees within the social protection network.

The changes were also felt in the federal government's budget. Changes in budget programming make it extremely difficult to assess to whom funding was allocated, which hampered social control. Thus, the Bolsonaro government oscillated between low allocation and poor execution of resources throughout its 4-year governance. In 2020, the most critical year of the pandemic, the Ministry of Women, Family and Human Rights failed to utilise 70 per cent of the resources allocated towards combating violence against women. At the same

¹⁴ *Pesquisa de Orçamentos Familiares*. 2017-2018 IBGE. (2018). <https://www.ibge.gov.br/estatisticas/sociais/saude/24786-pesquisa-de-orcamentos-familiares-2.html>

¹⁵ Trevisan, Maria Carolina (2020). *Over 4.2 million black women lifted out of extreme poverty with aid*. <https://www.geledes.org.br/mais-de-42-mi-de-mulheres-negras-sairam-da-pobreza-extrema-com-auxilio/> (geledes.org.br). Accessed on April 09, 2024.

¹⁶ INESC (2021). *A suffocated country - Balance of the Union Budget 2020*

time, violence against women grew by 20 per cent.¹⁷ This mismanagement did not go unnoticed by the justice system which - provoked by the complaints of researchers and women's social movements - triggered a request for investigation by the Financial Supervision and Control Commission of the Chamber of Deputies and the opening of an investigation by the Federal Public Prosecutor's Office to investigate the Ministry's poor execution during those years.

The policy of the previous government which aimed to promote racial equality and combat racism was also dismantled under the government of Jair Bolsonaro. In the Multiannual Plan 2019-2023, the government confirmed its racist bias by excluding any mention of the black population or the Quilombola communities. Such exclusion has consequences, as it makes planning for the implementation of public policies and budget programs specific to the promotion of the rights of the black population and Quilombola communities impossible. Consequently, this targeted budget was cut by 80 per cent over 4 years,¹⁸ just at a time when the black population was four times more likely to die than white people because of the new Coronavirus.¹⁹

In 2023, the government of Luiz Inácio Lula da Silva reinstated the Ministry of Women and created the Ministry of Racial Equality, beginning the path towards the programmatic resumption of race and gender-sensitive budgeting, including specific programmes and actions, as well as the publication of several decrees creating measures to guarantee rights for the black population and for women.

Unfortunately, the fiscal framework that replaced the 'spending ceiling' is imposing a new spending cap, which could negatively impact the effective implementation of the public policies proposed by the government in 2023. It may also detrimentally affect those that were intended to be the recipients of the new multi-year plan for the next four years, starting in 2024.

Brazil's tax system and women's human rights

The Brazilian tax system is iniquitous and insensitive to gender and intersecting racial inequalities. Major reforms are required to unite Brazilian society and make it more sustainable and healthy. Social spending plays an important role in tackling social inequalities and should therefore be central to any management that prioritises the demands of society (and not just those of a small elite). The reform and expansion of welfare policies - Bolsa Família and Continuous Cash Benefit (BPC) – would both enable an increase in cash transfers to black women and their families and preserve subsidies for old-age pensions and

¹⁷ Valente, Jonas & Rodrigues, Alex (2021). *Violência contra mulheres cresce em 20% das cidades durante a pandemia*. <https://agenciabrasil.etc.com.br/saude/noticia/2021-08/violencia-contra-mulheres-cresce-em-20-das-cidades-durante-pandemia>. Accessed on 09 April, 2024.

¹⁸ Alessandra Cardoso and others, *Depois Do Desmonte: Balanço Do Orçamento Geral Da União 2022* (2023) <https://www.inesc.org.br/wp-content/uploads/2023/04/Depois_do_desmonte-BOGU_2022.pdf> [accessed 17 October 2023].

¹⁹ Cardoso and others, *Depois Do Desmonte: Balanço Do Orçamento Geral Da União 2022*.

family farmers. At the same time the relative importance of indirect taxes in relation to income is essential, to reduce the vulnerability of the poorest in society, i.e. expanding the budget space, with consumption not absorbing all income. It is also important not to divert social spending to cash transfers programs, as the funding of public services needs to also be a priority to guarantee access to human rights.

Changes to the tax system in the proposal approved by the Chamber of Deputies can directly impact vulnerable populations and should be maintained and expanded. These include the expansion of subsidies for care and health products, especially those more often consumed by women, and measures like cashback to refund taxes paid by the poorest.

Black, Quilombola and indigenous women are the most affected by projects with a major socio-environmental impact on their territories (such as mining and infrastructure works), as well as by the effects of climate change. Consequently, the tax system should also contribute to the furthering of climate justice policies. The text approved by the Chamber of Deputies considers the general principle of environmental protection, which is positive. Products that are harmful to health and the environment will also be selectively taxed, but these products will only be defined in subsequent regulations. However, the climate is not specifically mentioned. This is a fundamental issue considering Law 12.187/2009, which established the National Policy on Climate Change, and requires the inclusion of the issue in the tax system. It is also unclear how tax incentives will be designed to tackle this challenge. Brazil has large tax expenditures for energy projects such as mining and fossil fuel extraction, but with little transparency in the criteria and evaluation of the benefits to society.

It is also necessary to consider Brazil's historical background to implement a truly fair and reparatory tax reform. The colonial slave structure prevailed for 500 years. The way in which the abolition of slavery was carried out - guaranteeing land and compensation to white slaveholders and not to freed blacks - initiated a process of concentration of wealth that persists to this day in the reproduction of privileges and denial of rights. There is, therefore, an enormous challenge in promoting the social mobility of the black population, especially black women, even with the quota system in universities. Reform of the frameworks for direct taxation, income and assets/inheritance is critical.

As mentioned earlier, the austerity measures that Brazil adopted in 2014 were detrimental to human rights. Taxation is the glue between society and state. When tax policies do not deliver on the 5 Rs of taxation and human rights (revenue, redistribution, repricing, representation, and reparation), the consequences fall on the most marginalised groups of society, including women and especially poor and black women.^{20, 21} Austerity policies

²⁰ Liz Nelson, *Tax Justice & Human Rights: The 4 Rs and the Realisation of Rights* (7 June 2021) <<https://taxjustice.net/reports/tax-justice-human-rights-the-4-rs-and-the-realisation-of-rights/>> [accessed 8 September 2021].

²¹ Tax Justice Network [@TaxJusticeNet], 'The 5Rs of taxation', *Twitter*, 2022 <<https://twitter.com/TaxJusticeNet/status/1597978603744292865>> [accessed 14 February 2023].

further lower revenue available to fund public services, thereby undermining the redistributive power of tax and the State's ability to deliver its human rights obligations.²²

Brazil's current tax system is regressive - meaning that lower income taxpayers pay a disproportionate share of tax.²³ A flat tax whereby all people are required to pay an equal proportion is also not conducive to achieving substantive equality, as it limits the redistributive function of taxation.²⁴ The redistributive role of fiscal policy can also be fulfilled by greater use of wealth and property taxes, progressive income taxes, and effectively combatting tax avoidance and evasion.²⁵ Research has shown, however, that Brazil has a very low redistributive capacity both in comparison with OECD countries and with other Latin American countries.²⁶

In a 2022 OECD study on gender and tax, Brazil reported that it has not implemented any tax policies or measures with gender equity as the main rationale, that there is no guidance on how to consider implicit gender bias in tax policy design, and that the country does not practice any form of gendered budgeting.²⁷ It is clear that tax policy directly affects women's rights, and that Brazil's regressive tax policies and harmful austerity measures are currently harming women in Brazil. However, Brazil has not adequately assessed the impact of the design and application of these policies and, in particular, is not attentive to the effects of these policies on women and other marginalised groups.

The Convention on the Elimination of All Forms of Discrimination against Women²⁸ specifically prohibits discrimination against women in all its forms and obligates signatory States under Article 2 to "condemn discrimination against women in all its forms" and to "pursue by all appropriate means and without delay a policy of eliminating discrimination against women". The Committee has, therefore, requested that Brazil addresses the effects of austerity measures on women in their last report.²⁹ Brazil has not done so. We urge Brazil to assess the effects of austerity measures and regressive tax policies on women, and to take

²² Nelson, *Tax Justice & Human Rights*.

²³ 'What Is a Regressive Tax?', *Tax Foundation*, 2023 <<https://taxfoundation.org/taxedu/glossary/regressive-tax/>> [accessed 16 August 2023].

²⁴ Magdalena Sepúlveda Carmona, *Report of the Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona* (22 May 2014) <<https://digitallibrary.un.org/record/773515>> [accessed 4 September 2023].

²⁵ *Fiscal Policy and Income Inequality* (23 January 2014) <<https://www.imf.org/external/np/pp/eng/2014/012314.pdf>> [accessed 1 September 2023].

²⁶ Koumbou Boly Barry and others, *Letter to Brazil on Concerns Regarding Constitutional Amendment No 95, Also Known as "Expenditure Ceiling"* <<https://www.ohchr.org/sites/default/files/Documents/Issues/Development/IEDebt/OL-BRA-4-2018.pdf>> [accessed 1 September 2023].

²⁷ OECD, *Tax Policy and Gender Equality: A Stocktake of Country Approaches* (2022) <https://www.oecd-ilibrary.org/taxation/tax-policy-and-gender-equality_b8177aea-en> [accessed 1 August 2023].

²⁸ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

²⁹ Brazil State Party report. (n.d.). In *UN Treaty Body Database*. United Nations Human Rights Treaty Bodies. Retrieved April 9, 2024, from https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBR A%2F8-9&Lang=en

action to correct the disparate effects of these policies that keep women in cycles of poverty and economic disenfranchisement.

Part B: Financial transparency and tax policies

Transparency of legal vehicles

Transparency regarding the ownership and operations of legal entities, such as companies, partnerships, foundations, and trusts, holds critical importance for progressive tax systems. Tax systems are key both in providing but also redistributing the resources needed to eradicate all forms of discrimination. Several scandals, including the Panama Papers, the Paradise Papers, and the Pandora Papers, have highlighted how legal entities are exploited to facilitate illicit financial flows and abuse tax systems.

Financial transparency is crucial to create progressive tax systems that cater to the needs of women and other minorities. Advancing the fight against gender discrimination hinges on the normalization and implementation of a comprehensive set of tax justice policies and institutional changes, both nationally and globally. The United Nations Secretary-General, Antonio Guterres, recently recognised beneficial ownership transparency as a key policy area essential for achieving the sustainable development goals. According to a policy brief by the Secretary-General, which outlines a roadmap for reforming the international financial architecture, “*countries should strengthen beneficial ownership transparency systems with broad coverage, automated verification, and publication of information. Such registries would be game changers in efforts to properly tax high net worth individuals and multinational enterprises.*”³⁰ The A to G₃ framework of tax justice offers a concise overview of critical reforms towards transparency, aimed at decisively curbing tax abuse by wealthy individuals and multinationals.³¹

Brazil has made some progress in implementing a beneficial ownership registration framework for legal entities, but further action is needed to effectively address their misuse. In 2016, Brazil introduced a framework mandating the registration of beneficial owners - the real individuals behind legal entities operating in the country³². However, this measure did not address certain pre-existing issues, particularly the lack of a clear timeframe for phasing out bearer shares, which grant rights to whoever physically holds them. Up to 2022, official websites still held that while bearer shares had been suspended, they could still be converted

³⁰ United Nations (2023). *Our Common Agenda: Reforms to the International Financial Architecture*.

³¹ ‘What Are the ABCs of Tax Justice?’, *Tax Justice Network* <<https://taxjustice.net/faq/what-are-the-abcs-of-tax-justice/>> [accessed 13 April 2022].

³² OECD, Global Forum on Transparency and Exchange of Information for Tax Purposes: Brazil 2018 (Second Round) (Paris, 2018), 45 <https://www.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-brazil-2018-second-round_9789264306103-en> [accessed 15 October 2018]

into nominal shares and those rights retrieved.³³ To ensure the effectiveness of the beneficial ownership information framework, addressing pre-existing issues like remaining bearer shares is imperative. Ideally, legal entities with bearer shares in their ownership chain should not be permitted to register or operate in the country.³⁴

There are other reasons that the current framework still falls short in combatting the misuse of legal vehicles. One major concern is the high threshold for beneficial ownership registration, which only requires the identification of those who directly or indirectly hold more than 25 per cent of shares or voting rights in a legal entity. This high threshold allows those seeking financial opacity to easily avoid identification, lagging behind regional and international trends.³⁵ Moreover, in 2023, GAFILAT reported that there are very low compliance rates with the system, which indicates that it is not being adequately enforced to tackle financial opacity.

To enhance transparency, Brazil should consider making beneficial ownership information accessible to the public and enabling easy access to information on the legal ownership of companies by researchers, activists, and foreign authorities. Currently, the tax authority publishes information on the legal owners of companies registered with the National Cadastre of Legal Persons. However, by only disclosing the first layer of ownership, the country effectively grants opacity to legal entities with complex ownership structures. Integrating beneficial ownership information into public cadastral data would help address this issue.

Public access to beneficial ownership information is crucial for verifying registered data and allowing other authorities to access this information. It also aligns with the recent tax reform that emphasises principles of environmental protection as key for the overall tax system. Public beneficial ownership information can help in countering illicit financial flows which keep environmental crimes profitable, and channel illicit financial flows related to human trafficking and sexual exploitation. This is important to address gender discrimination, particularly faced by women and other minorities from rural indigenous, and Quilombolas communities.

³³ Comissão de Valores Mobiliários, ‘O início: certificados e ações ao portador’, Portal do Investidor <<https://www.gov.br/investidor/pt-br/investir/como-investir/escrituracao-custodia-e-deposito-centralizado/o-inicio-certificados-e-aco-es-ao-portador>> [accessed 1 August 2023]

³⁴ Andrés Knobel, Roadmap to Effective Beneficial Ownership Transparency (REBOT) (7 February 2023) <<https://taxjustice.net/wp-content/uploads/2023/02/Roadmap-to-Effective-Beneficial-Ownership-Transparency-Version-1-2023.pdf>> [accessed 8 February 2023].

³⁵ Our research shows that out of the ten countries from the region which have beneficial ownership registration framework, Brazil is one of the two which adopt the highest thresholds. Argentina has no threshold, and Colombia has a threshold of 5%, while Paraguay, Perú and Ecuador have a threshold of 10 %. Florencia Lorenzo and others, ‘El Estado Actual de Los Registros de Beneficiarios Finales En América Latina’ <<https://taxjustice.net/wp-content/uploads/2023/03/The-State-of-Play-of-Beneficial-Ownership-Registration-in-LATAM-2022-Tax-Justice-Network.pdf>> [accessed 1 August 2023]

Beyond corporate vehicles, concerns also arise with trusts and legal arrangements used to create ownership limbo and evade taxes,³⁶ as highlighted by the Pandora Papers. The Brazilian government recently enacted a law which states that income and assets held in trusts are to be considered as income and assets of the settlor.³⁷ This measure was part of an important package which the government approved to tackle loopholes around the taxation of investment funds and offshore vehicles. However, it remains unclear if sufficient tools are in place to enforce this measure. The existing beneficial ownership transparency law only requires the registration of foreign law trusts with investments or assets in the country, omitting trusts with a local settlor, trustee or beneficiaries. Addressing this shortcoming is vital to equip authorities with the necessary tools to combat the misuse of offshore trusts effectively.

Beyond ownership information, effective and accountable tax systems also require transparency over company affairs. This includes, for instance, the requirement to register and publish company accounts and report which tax incentives certain companies benefit from. Brazil recently began publishing information on tax incentives at the company level³⁸. This is a welcome development and could situate the country at the forefront of tax transparency. Still, there is more to be done. This new data should now be followed by a careful assessment by authorities of the gender and race impacts of the country's tax incentives.

Still, when talking about corporate tax abuse, the main concern is often focused on large multinationals. They often organise their corporate affairs throughout the world, artificially reporting large profits in jurisdictions with low or no taxation, while reporting losses or meagre profits in jurisdictions with higher tax rates. For this reason, it is important that countries require all multinationals operating in their countries to report on a country-by-country basis and make this information publicly available. Australia is currently debating a bill to advance in this regard.³⁹ Brazil, which could adopt a leadership position in the publication of tax incentives data, should also consider making this information public. From existing experiences of countries adopting sectoral public country-by-country reporting regimes, we estimate that public data reporting could potentially lead to retrieving one out of four dollars lost to corporate tax avoidance.⁴⁰ This would allow Brazil to progressively

³⁶ There are other concerns related to the misuse of trusts in gender cases. They have also been employed by spouses to avoid responsibilities in cases of divorce.

³⁷ Wright, Carolyn. *Brazil's new tax law affects individuals residing in Brazil*. <https://globaltaxnews.ey.com/news/2024-0266-brazils-new-tax-law-affects-individuals-residing-in-brazil>. [accessed in April 2024]

³⁸ Receita Federal, 'Benefícios e Renúncias Fiscais', *Receita Federal* <<https://www.gov.br/receitafederal/pt-br/centrais-de-conteudo/planilhas/beneficios-e-renuncias-fiscais>> [accessed 1 August 2023].

³⁹ 'Tax Justice Network Hails a Major Breakthrough in Corporate Tax Transparency', Tax Justice Network <<https://taxjustice.net/press/tax-justice-network-hails-a-major-breakthrough-in-corporate-tax-transparency/>> [accessed 2 August 2023]

⁴⁰ Tax Justice Network, 'State of Tax Justice 2022', Tax Justice Network, 2022 <<https://taxjustice.net/reports/state-of-tax-justice-2022/>> [accessed 6 February 2023].

expand its tax base and fund public services needed to combat gender inequalities in the country.

Part C: International context, Cross-border tax abuse and global governance

Scale of tax abuse in Brazil

Over the past two decades, the Committee on the Elimination of Discrimination against Women (CEDAW) has established that State parties to CEDAW need to raise and spend adequate resources in a non-discriminatory manner, in order to fulfil their treaty obligations to ensure substantive equality for women. When government budgets fall short, women suffer disproportionately from underfunded services, spending cuts, increased reliance on regressive revenue sources, and greater dependence on the largely unpaid care work that women often perform.

One of the most significant drains on public budgets today is the loss of tax revenue to cross-border tax abuse by corporations and individuals seeking to avoid or minimise their tax payments—a phenomenon that disproportionately affects ‘developing’ countries like Brazil. The Tax Justice Network estimated in 2023 that Brazil loses US\$7,755.4 million in taxes to the harmful tax practices of corporate tax abuse and offshore wealth tax evasion. Most of this is funnelled into higher-income OECD member nations.⁴¹ This amount is equivalent to 1.7 per cent of Brazil’s total tax revenue. This money that is lost to corporate and individual greed could fund essential public services that can bridge the gaps in equality for women and marginalised groups.

Table 2: Tax loss to corporate tax abuse and offshore wealth tax abuse in Brazil

Year reported (State of Tax Justice)	Total annual tax loss (USD million)	Total annual tax loss (% of GDP)	Of which: Corporate tax abuse (USD million)	Of which: Offshore wealth (USD million)
2021	8,165.0	0.4%	7,866.9	298.1
2023	7,755.4	0.4%	7,504.8	250.6

⁴¹ Tax Justice Network, *State of Tax Justice 2023* (2023) <<https://taxjustice.net/wp-content/uploads/2023/08/State-of-Tax-Justice-2023-Tax-Justice-Network-English.pdf>> [accessed 2 August 2023].

All too often, women suffer the most when States lack adequate resources to pay for public goods and services, such as healthcare, education, water and sanitation systems, effective courts, and accountable police forces. The impacts on women occur in at least four ways:

- i. inadequate budgets for social services or cuts to existing programs disproportionately affect low-income populations, among whom women are overrepresented.
- ii. budget constraints mean that institutions and programs designed to promote gender equality and support women's advancement often go unfunded or underfunded, and constantly face the risk of spending cuts.
- iii. when the State fails to provide adequate services due to budget constraints, women often fill the gaps in caregiving, education, and other family support, typically without remuneration.
- iv. in an effort to make up for revenue shortfalls, many States increase their reliance on easily administered but regressive forms of taxation, such as consumption or value-added taxes on basic goods and services, which often disproportionately burden women.⁴²

Rather than implement robust measures to prevent tax abuse, Brazil has chosen to implement wide-ranging austerity measures and cut social services, which has had egregious effects on women and their ability to enjoy and realise the full spectrum of their human rights.

Global governance: UN tax convention and beyond

Creating a progressive tax system that delivers the necessary tools to combat the intersectional dimensions of gender and race inequalities requires the development not only of progressive domestic tax institutions, but also of international ones. The current international tax institutions, which are centred in the OECD have consistently fallen short in their role of limiting international tax abuse. We estimate that in the next ten years, as a direct consequence of the limitations of these rules, almost five trillion dollars will be lost.⁴³ We estimate that Brazil loses US\$7.75 billion dollars each year to in untaxed income to tax havens.

The previous government undertook a problematic approach to international tax relations, which could have a significant impact on the country's ability to fund and redistribute through taxation. During Michel Temer's administration, Brazil formally requested accession to the OECD in 2017. As part of the process of accession, the organisation asked Brazil to

⁴² Tax Justice Network, '● Live Blog: UN Vote on New Tax Leadership Role', *Tax Justice Network*, 2022 <<https://taxjustice.net/2022/11/22/●-live-blog-un-vote-on-new-tax-leadership-role/>> [accessed 3 February 2023].

⁴³ Tax Justice Network, *State of Tax Justice 2023*.

reform several of its tax policies, including its transfer pricing guidelines. This is worrisome because OECD rules have historically favoured high income countries at the expense of lower- and middle- income countries. Brazil should consider carefully the policies that the OECD requires for accession and re-assess the costs it entails.

The current government seems to have timidly redirected the orientation of the country's foreign tax policy. In November 2023, Brazil voted in favour of establishing a global tax convention at the United Nations. The decision paves the way for the full enjoyment and protection of human rights for all. Brazil's Minister of Finance, Mr. Fernando Haddad, pointed out the need for international tax cooperation: *"I want to salute the fact that most countries in the world have clearly expressed the desire to deepen international tax cooperation through a United Nations Convention. At the end of last year, the United Nations General Assembly adopted Resolution 78/230, thus opening a new avenue for international taxation. [...] it is evident that the G20 cannot simply ignore the significance of such a fact"*.⁴⁴ This is a welcome step in pushing for inclusive global tax rules that would enable Brazil to shift lost revenue towards essential public services and measures to balance historic iniquities.

Brazil can, and must play a role in changing this scenario, especially as it assumed the G20 presidency in 2024. The State holds strategic importance in the Latin American bloc in terms of regional support for a UN tax convention. The current administration recently participated in the first Latin American and Caribbean Summit for an Inclusive, Sustainable and Equitable Global Tax Order, which resulted in establishing a permanent regional platform to discuss the tax agenda. Brazil's participation in this process is crucial for regional success in this area and in continuing to support worldwide efforts to establish a more inclusive global framework for setting tax rules in the form of a UN tax convention.

Given the potential impacts that effective reform of the international tax institutions could have on the progressivity of the tax system and on the capacity of the country to recoup resources to support the funding of public services, the government must ascribe greater priority in its participation in these forums, and advocate in international forums for the development of fairer international tax policies.

The ongoing discussions towards a United Nations Tax Convention represent the best path forward in establishing a global economic governance system capable of achieving a genuinely representative, sustainable, and equitable tax system that places human rights at the centre.

⁴⁴ *Tributação Internacional Para o Século 21 Trilha de Finanças (29/02/2024)*, 2024, <https://www.youtube.com/watch?v=72cre-R37MU>.

General Recommendations

Given all the issues outlined in this report, we propose the following set of actions to reform the Brazilian tax system, aiming to make it a crucial instrument in eliminating all types of discrimination against women:

Tax system

- Recognise the disparate impact of austerity measures on women and other vulnerable populations and adopt gender sensitive strategies in the development of tax policy. This should include an analysis of the tax system and its impacts on the most vulnerable groups of the population, especially women. The outcome should be the prevention and correction of labour market exclusion, ensuring an adequate level of social protection, and bolstering and expanding social services.
- Maintain and expand the changes in the tax system present in the proposal approved by the Chamber of Deputies that directly impact vulnerable populations. These include the expansion of subsidies for care and health products, especially those more consumed by women, and measures like cashback to refund taxes paid by the poorest.
- Implement broader tax reform that combats the deficiencies of income and wealth taxes in the promotion of equality.
- Redistribute the tax burden from consumer taxes to wealth and progressive income taxes.
- Implement taxes for the reparation of the historical and current violence against black people and black women especially.

Tax transparency

To improve transparency on legal vehicles, Brazil should:

- End or phase out the use of bearer shares from all domestically incorporated companies. In addition, it should not allow entities which use bearer shares in their ownership chain to register with the Cadastro Nacional de Pessoas Jurídicas.
- Improve its definition of beneficial owner and follow the example of other countries of the region, adopting lower thresholds for registration.
- Improve the triggers for registration for foreign legal vehicles, and in particular it should require every foreign law trust with a domestic trustee to register in the Cadastro Nacional de Pessoas Jurídica.
- Reform Portaria RFB no. 34, de 14 de maio de 2021¹¹ to remove fiscal secrecy over beneficial ownership information, and start publishing it in an open access format, together with information on legal owners.
- Require multinationals to publish public, disaggregated country by country reports.

- Collect and publish tax statistics disaggregated by gender and race to evidence the impact of policy reform and to ensure non-retrogression.
- Conduct and publish information on the gender impact of the county's tax policies.
- Actively publish statistics which allow for analysis of gender and race impacts of tax policies.
- Publish statistics related to the country's efforts to create a more progressive tax system including statistic related to the use of information on the automatic exchange of information.

Global tax policy and reforms

- Continue active, engaged, and decisive participation in regional efforts to agree on inclusive, sustainable, and equitable tax standards in order to combat issues that disproportionately affect women, including rising poverty and inequality.
- Proactively support global coordination efforts for global tax negotiations, especially by engaging in and supporting the process to develop a globally inclusive UN Tax Convention.