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16 October 2003

BRA41713.E

Brazil: Domestic violence, including police response to complaints (2001-September 2003)
Research Directorate, Immigration and Refugee Board, Ottawa

Experts consulted by the Research Directorate consider domestic violence to be a serious problem in Brazil (SOS Corpo 30 Sept. 2003; Gesto e Ação 30 Sept. 2003; NEMGE 11 Sept. 2003; MUSA 17 Sept. 2003). While a physician attached to the São Paulo based Gesture and Action Health and Women's Rights Research and Promotion Association (Associação para Pesquisa e Promoção da Saúde e dos Direitos das Mulheres Gesto e Ação) claimed that there has been an increase in the incidence of all types of violence in recent years, including domestic violence (Gesto e Ação 30 Sept. 2003), others indicated that it is difficult to track changes in the level of domestic violence because of the lack of research in this area (SOS Corpo 30 Sept. 2003; CFEMEA 24 Sept. 2003).

In a national survey undertaken in 2001, the Perseu Abramo Foundation found that 33 per cent of women had suffered some form of physical violence at the hands of a man at least once in their lives (CLADEM and UNIFEM 2003). According to the vice president of Woman and Health (Mulher e Saúde, MUSA), a Belo Horizonte based group that engages in women's health education and promotion activities, women's police stations throughout the country registered 411,213 complaints from women in 1999 (17 Sept. 2003). These included 113,727 cases of assault, 107,999 allegations of threats, and 32,183 cases of rape (ibid.). However, a number of sources indicated that female victims of violence often do not bring complaints to the attention of the authorities (*Country Reports 2002* Mar. 2003, Sec. 5; CLADEM and UNIFEM 2003; *O Liberal* 31 Mar. 2002; Gesto e Ação 12 Sept. 2003).

Experts agreed that the level of protection available to victims of domestic violence is insufficient (NEMGE 11 Sept. 2003; Gesto e Ação 12 Sept. 2003; CFEMEA 24 Sept. 2003; MUSA 17 Sept. 2003; SOS Corpo 30 Sept. 2003). However, a number of sources also indicated that the authorities have responded to concerns voiced by the women's movement by taking some positive steps to deal with this problem (ibid.; MUSA 17 Sept. 2003).

International conventions dealing with violence against women that have been adopted by Brazil consist of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), ratified in 1984, and the Inter American Convention on the Prevention, Punishment and Eradication of Violence Against Women, ratified in 1995 (CLADEM and UNIFEM 2003). Although several states address the issue of domestic violence in their constitutions, there is no federal law dealing specifically with the prevention, sanction or eradication of violence against women (ibid.). Rather, such violence is punished under the terms of the Penal Code (ibid.).

At a procedural level, the authorities have adopted several measures that have affected the investigation and prosecution of domestic violence cases (ibid.). For example, Specialized Women's Police Stations (Delegacias Especiais de Atendimento a Mulher, DEAMs) have been operating in some locales since 1985 (ibid.; CFEMEA 24 Sept. 2003). They offer female victims of violence counselling and a supportive environment in which to report crimes (CLADEM and UNIFEM 2003; MUSA 17 Sept. 2003), as well as providing conflict

resolution services (ibid.). According to the scientific coordinator of the University of São Paulo's (Universidade de São Paulo, USP) Women's Studies and Gender Relations Unit (Núcleo de Estudos da Mulher e Relações Sociais de Gênero, NEMGE), the DEAM initiative is the best of what has generally been a lacklustre government response to the problem of domestic violence (11 Sept. 2003). The scientific coordinator indicated as well that individuals working in these stations do not receive enough training (ibid.).

A similar concern was voiced by a technical advisor at the Brasilia based Feminist Studies and Advisory Centre (Centro Feminista de Estudos e Assessoria, CFEMEA), who noted that the DEAMs' efficacy is compromised by staff members' often poor understanding of how to deal with domestic violence victims (24 Sept. 2003). Other problems include personnel shortages, being accorded a low status within the law enforcement community (ibid.; MUSA 17 Sept. 2003), a lack of basic equipment such as firearms, cars or telephones, and the fact that many DEAMs have no psychologist or social worker on staff (ibid.). Furthermore, women's police stations are highly concentrated geographically, with more than half located in the States of São Paulo and Minas Gerais (CLADEM and UNIFEM 2003). Many other states, especially those in the North and North East, have only one DEAM each (ibid.).

In assessing police attitudes in general, the CFEMEA technical advisor stated that officers continue to experience much difficulty dealing with incidents of domestic violence, which they tend to view as a private matter between husband and wife (24 Sept. 2003). For this reason, according to the technical advisor, the level of protection available to victims is both "very small and ineffective" (*muito pequena e ineficaz*) (ibid.). In the view of a physician attached to the Gesture and Action Health and Women's Rights Research and Promotion Association, while the police will act in cases of domestic violence when called upon to do so, this usually only occurs when the situation has become quite serious, involving for example significant injuries or attempted murder (12 Sept. 2003). The NEMGE's scientific coordinator expressed a similar opinion, claiming that the police is only likely to act in cases where the victim's life is at risk or she has already been killed (11 Sept. 2003). The research coordinator of the Recife based non governmental organization SOS Corpo indicated that while the police generally does not consider domestic violence to be an important issue, individual officers or "isolated elements" (*setores isolados*) within the police force have demonstrated a willingness to take the problem seriously (30 Sept. 2003).

Also significant in its impact on the handling of domestic violence cases was the adoption of Law 9,099 in 1995 (CLADEM and UNIFEM 2003). Implemented as a means of rendering the justice system more efficient, the law provided for the transfer of minor crimes, namely those involving a maximum penalty of less than one year imprisonment, to Special Criminal Courts (Juizados Especiais Criminais, JECRIMs) (ibid.; *No Mínimo* 8 Sept. 2003). Under the terms of Law 9,099, JECRIMs are guided by principles such as compensating victims for harm perpetrated against them and of imposing non custodial penalties on those found guilty (CLADEM and UNIFEM 2003). Given the nature of complaints most frequently registered by DEAMs in domestic violence cases, such as assault resulting in "moderate bodily harm" (*lesão corporal de natureza leve*) (ibid.), the majority of such cases are heard in a JECRIM setting (ibid.; *No Mínimo* 8 Sept. 2003).

However, according to the Latin American and Caribbean Committee for the Defence of Women's Rights (Comitê Latino Americano e do Caribe para a Defesa dos Direitos da Mulher, CLADEM and UNIFEM), the courts' effectiveness is undermined because they are dependent on often deficient police reporting practices, and they have a record of imposing light penalties that fail to deter aggressors while trivializing violence against women (2003). In a more general criticism, the CFEMEA's technical advisor indicated that most domestic violence cases are "archived" (*arquivados*) by the courts because of the high standard of proof required of victims (24 Sept. 2003). This statement corroborates the claim made by *Country Reports 2002*, citing a 1999 study, that 70 per cent of women's domestic violence criminal complaints were suspended, while only 2 per cent resulted in a conviction (Mar. 2003, Sec. 5). The CFEMEA technical advisor also noted that judges frequently attempt to convince victims to withdraw their complaint from the trial process (ibid.).

There are approximately 50 shelters countrywide where victims of domestic violence can seek protection (Rede Feminista de Saúde 2002). Characterized by the coordinator of the São Paulo based Sexuality and Health Feminist Collective (Coletivo Feminista Sexualidade e Saúde) as a relatively "timid" (*timida*) response to the problem of violence against women (1 Oct. 2003), the shelters are considered insufficient in number to meet the level of need (MUSA 17 Sept. 2003; *Country Reports 2002* Mar. 2003, Sec. 5). The MUSA vice-president stated that women's shelters are sometimes forced to close because of a lack of resources, adding that support services for victims of domestic violence are generally "poorly staffed and funded" (17 Sept. 2003).

The government of Luiz Inácio Lula da Silva, inaugurated in January 2003, has taken a number of steps to combat domestic violence. For example, in August 2003 the government ratified a law allowing the authorities to establish a national toll free number that female victims of violence could call to register

complaints (*Jornal Fêmea* 27 Aug. 2003). Also in August 2003, the Special Secretariat for Women's Policies (Secretaria Especial de Políticas para as Mulheres), a federal body given ministerial status by President Lula, released a National Plan to Prevent, Assist and Combat Violence against Women (Plano Nacional de Prevenção, Assistência e Combate da Violência Contra a Mulher) (Coletivo Feminista Sexualidade e Saúde 1 Oct. 2003; *Jornal do Brasil* 28 Aug. 2003). Under the terms of this initiative, training will be provided to DEAM personnel, more shelters will be built, referral centres (*centros de referência*) will be established where victims can go for help and on going support, and legislative changes will be implemented to criminalize domestic violence and impose stiffer penalties on perpetrators (CFEMEA n.d.). According to the CFEMEA's technical advisor, it is still too early to assess whether or not the plan is being implemented effectively (ibid. 24 Sept. 2003).

For information on recourse available to domestic violence victims prior to 2001, please refer to BRA38669.E of 20 March 2002.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

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Centro Feminista de Estudos e Assessoria

Cidadania Estudo Pesquisa Informação e Ação (CEPIA)

Jornal do Brasil [Rio de Janeiro]

O Estado de S. Paulo [São Paulo]

Rede Feminista de Saúde

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