

# GENDERED POLITICAL VIOLENCE AS A LEGAL FRAMEWORK: AN ANALYSIS OF THE BRAZILIAN REALITY

*Violência política de gênero como enquadramento jurídico:  
uma análise da realidade brasileira*

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## Abstract

In August of 2021, the Brazilian government sanctioned in the Electoral Code and the Penal Code the typification of violence against women in politics (VAWIP) as a punishable crime. This research provides a critical analysis of the implementation of the 2021 Law n. 14.192 that typifies VAWIP as a crime. To do so we discuss how the law addresses, in theory, the types of VAWIP identified in the extant literature (physical, psychological, sexual, economic, and semiotic). We then discuss Brazil's VAWIP law contextualizing it within the Brazilian political landscape, regional (as well as global) perspectives on the issue, and comparing Brazil's law with the Inter-American model law on the prevention, punishment, and eradication of violence against women in political life. We argue that Brazil's VAWIP law provide the legal basis for addressing the issue, but the ambiguous and broad language used in the law leaves a lot of room for interpretation of what will typify this kind of violence.

**Keywords:** VAWIP. Gender-based violence. Electoral laws. Political parties.

## Resumo

Em agosto de 2021, o governo brasileiro sancionou no Código Eleitoral e no Código Penal a tipificação da Violência Contra a Mulher na Política (VAWIP) como crime. Esta pesquisa fornece uma análise da implementação da Lei nº 14.192/2021, que tipifica violência contra a mulher na política como crime. Neste artigo, nós discutimos como a lei aborda os tipos de VAWIP identificados na literatura existente (física, psicológica, sexual, econômica e semiótica). Em seguida, discutimos a Lei VAWIP do Brasil, contextualizando-a dentro do cenário político brasileiro, as perspectivas regionais (bem como globais) sobre o assunto e comparamos a lei do Brasil com a lei modelo interamericana para prevenir, sancionar e erradicar a violência contra a mulher na vida política. Argumentamos que a Lei VAWIP do Brasil fornece a base legal para abordar a questão, mas a linguagem ambígua e ampla usada na lei deixa muito espaço para interpretação do que tipificará esse tipo de violência.

**Palavras-Chave:** Violência contra a mulher na política. Violência de gênero. Leis eleitorais. Partidos políticos.

## Introduction

Since the enactment of a 2012 law criminalizing political violence and harassment against women in Bolivia, several Latin American countries followed suit in the proposal and enactment of such laws (ARAUJO, 2023; SANÍN, 2018, 2020). In August 2021, Law n. 14.192 was sanctioned in Brazil, establishing norms to “prevent, suppress, and fight against political violence against women” (“Lei n. 14.192, de 4 de agosto de 2021”, 2021). As more governments attempt to address this very specific type of gender-based violence (GBV), scholars, policymakers, and activists must grapple with the conceptual and practical applications of such laws. This research focuses on Brazil’s Violence Against Women in Politics (VAWIP) legislation, situating it in the broader international and regional context, and analyzing its initial implementation. In the international context, we argue that Law n. 14.192 provides the legal basis for addressing VAWIP, but the ambiguous and broad language used in the law leaves a lot of room for interpretation of what typifies this kind of violence.

This paper contributes broadly to the growing literature on VAWIP globally (KROOK, 2018, 2020; SANÍN, 2022) by providing an initial analysis of Brazil’s law, and extends the literature on violence against women in politics in the Brazilian context (BIROLI, 2016, 2018; DOS SANTOS; JALALZAI, 2021; FRANCO, 2022; GERALDES et al., 2016; GRUNEICH; CORDEIRO, 2021; JALALZAI et al., 2022; RUBIM; ARGOLO, 2018). To our knowledge, this is the first work written in the English language addressing Law n. 14.192. Expanding the discussion of the law beyond the Portuguese language, this research bridges the work conducted in the Brazilian context and engages a broader audience addressing issues related to VAWIP.

This paper is organized as follows. We first provide an overview of the term violence against women in politics (VAWIP), connecting conceptual debates in the social sciences with the debates on specific laws and their implementation. Second, we discuss Brazil’s Law n. 14.192, contextualizing it within the Brazilian political landscape, regional (as well as global) perspectives on the issue, and comparing Brazil’s law with the Inter-American model law on the prevention, punishment, and eradication of violence against women in political life (COMISIÓN INTERAMERICANA DE MUJERES, 2017). Finally, we provide a brief analysis of the first year of the law in practice.

## 1 Conceptual and legal debates

Scholarship analyzing violence against women in politics (VAWIP) has grown tremendously over the last decade. VAWIP entails “(1) aggressive acts aimed largely or solely at women in politics, (2) because they are women, often using gendered means of attack and (3) with the goal of deterring their participation in order to preserve traditional gender roles and undermine democratic institutions” (KROOK, 2017, p. 77). Men’s dominance in political positions is well documented and Brazil is no exception (DE MELO; THOMÉ, 2018; DOS SANTOS, 2021; DOS SANTOS; JALALZAI, 2021). The private/public divide that has led to men being overwhelmingly over-represented in the political realm makes women’s inclusion threatening to the status quo. VAWIP occur in the context of male-dominated political institutions through individuals attempting, either consciously or unconsciously, to keep as much of the existing power structure intact.

Globally, over 85% of women in parliament have been victims of psychological violence and 25% have experienced of sexual violence, alluding to the prevalence of VAWIP (SANÍN, 2022). VAWIP manifests in different ways. KROOK (2020) outlines five varied types including physical, sexual, psychological, economic, and symbolic. Physical violence includes bodily injuries to women politicians (and or members of their families). Sexual violence refers to an array of potential sexual acts including sexual harassment, sexual exploitation, and rape. Psychological violence entails abuse or hostile behavior aimed at causing emotional harm. Economic violence includes various types of coercion focused on dominating the victim’s economic resources. Symbolic violence attempts to deny women’s political competence through abuse and coercion. In addition, semiotic violence “Entails drawing on and reinforcing inequalities by using words and images – and in some cases, body language – to injure, discipline, and subjugate members of marginalized groups” (KROOK, 2020, p. 188). In the area of VAWIP, it results in the denying women their political rights and aims to shape views about women among the public, particularly in the realm of politics.

Scholars argue that VAWIP targets women regardless of their particular party affiliations and political ideologies (SANÍN, 2020). In fact, women may be victimized by members of their own political parties or even their families (SANÍN, 2020). VAWIP is meant to

intimidate women from seeking political roles, creating conditions that make it difficult or impossible to fulfill to perform their duties, or inhibit them from taking specific stances/actions they otherwise would (SANÍN, 2018). VAWIP is often conflated with backlash against women (PISCOPO, 2016). While these concepts are interrelated, VAWIP is designed to preserve the status quo while the latter “are concerned with maintaining a particular social order centered on the heterosexual family as the basis of society” (SANÍN, 2020, p. 303). In doing so, it aims to stifle women’s presence in politics and turn back measures that would challenge conservative policies seeking to maintain a gendered status quo.

It is important to note that some scholars challenge the gendered nature of some attacks on women, arguing that political violence is embedded within particular contexts that are already violent, making some of the violence suffered by women in politics not gendered, i.e.: not influence solely or mostly because of their gender (BARDALL; BJARNEGÅRD; PISCOPO, 2020; PISCOPO, 2019, 2016). For example, studies of politically volatile contexts where men and women experience similar rates of violence as candidates. Still, research finds that women disproportionately face specific violent acts more often than do their male counterparts, particularly sexualized and physical violence (BJARNEGÅRD; HÅKANSSON; ZETTERBERG, 2022). Therefore, scholars and legal specialists must critically analyze the conceptual and legal debates surrounding VAWIP as distinct from political violence particularly in its aim to prevent women’s participation in the political sphere because they are women (KROOK; RESTREPO SANÍN, 2016).

Latin America has taken the lead in passing VAWIP laws. In 2012, Bolivia became the first country in the world to criminalize VAWIP (ARAUJO, 2023; SANÍN, 2021). Though many Latin American countries had already implemented laws against violence against women, these tended to be limited to protecting women in the domestic sphere rather than in public settings. As such, VAWIP laws focus on criminalizing gender-based violence across myriad institutions including politics (SANÍN, 2018). This unfolded in different ways. Some legislation resulted from altering existing laws related to violence against women to include violence in the public domain. Others also including women in politics as they modified existing laws. Some countries changed laws

or created new legislation to recognize VAWIP as an electoral crime while other countries approached VAWIP through a combination of laws (SANÍN, 2021).

Local activists, politicians, and femocrats are credited with the development of VAWIP measures. According to SANÍN (2021), although international actors played an important role, this is to lesser extent than activists and other actors mentioned who were able to place pressure on policymakers. It is in this regional and global context that Brazil enacted in 2021 their first law specifically targeting violence against women in politics.

## 2 The brazilian legislation in a comparative perspective

The bill that originated Brazil's Law n. 14.192 was initially proposed by the federal representative Rosângela Gomes (Republicanos Party, Rio de Janeiro). Its main goal was to improve the legislation, especially address electoral violence and discrimination against women, and to ensure conditions for more women to participate of institutional politics. The proposal mentions its alignment with the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which is considered the most important instrument regarding gender-based violence at the global level, as it recognizes some manifestations of violence against women (SANÍN, 2022).

The bill, however, did not mention the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, signed in Brazil in 1994. Also known as the Belém do Pará Convention, the regional document was the result of work by the Inter-American Commission on Women (CIM), part of the Organization of American States (OAS), which was important to advancing women's rights in Latin America. In 2015, CIM organized an important international VAWIP event, the Experts' Meeting with politicians, activists, and academics. During its second edition, experts of several countries of the region worked on the Inter-American Model Law on the Prevention, Punishment and Eradication of Violence against Women in Political Life (COMISIÓN INTERAMERICANA DE MUJERES, 2017).

In its final version adopted on August 4, 2021, Law n. 14.192 (see Appendix) considers political violence against woman as “any action, conduct or omission with the purpose of preventing, hindering or

restricting women's political rights" ("Lei n. 14.192, de 4 de agosto de 2021", 2021). In the single paragraph of its third Article, the legislation includes "any distinction, exclusion or restriction on the recognition, enjoyment or exercise of their rights and their fundamental political freedoms, *due to sex*", as acts of political violence against women ("Lei n. 14.192, de 4 de agosto de 2021", 2021).

The fact that the Brazil's Law attribute the cause of this kind of violence to sex, distinguishes it from definitions of VAWIP of authors such as Krook (2020), who highlight that it entails a gender motivation – excluding women from participating in political life. "Because it is motivated by bias and discrimination, this form of violence is specifically directed at women, including in intersectional ways" (KROOK, 2020, p. 65). The Brazilian legislation does not consider the gender motivation included in the broader concept of violence against women set forth in the Belém do Pará Convention. According to the Convention, the inter-American convention with the most ratifications by the OAS, violence against women should be understood as "...any act or conduct, *based on gender*, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere" (INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, 1998).

Brazil's Law linking of VAWIP to the biological sex, instead of gender, excludes some women, such as transsexuals and transvestites, who tend to suffer even more from this violence (FERREIRA; RODRIGUES; CUNHA, 2021; PINTO, 2021). As Kuperberg (2018) problematizes, women in politics are not a homogeneous group; intersecting axis of oppression affect their lives. The Marielle Franco Institute emphasizes the importance of observation in the foreground of experiences of black women, indigenous people, quilombolas, cis women, transsexuals, transvestites, intersex people and other identities of neglected women, since gender and race are the main triggers of aggressions in Brazil (2021, p. 12). Though the Brazilian Law does not include the gender motivation to VAWIP, it mentions the racial dimension of VAWIP as it "prohibits discriminatory and unequal treatment based on sex or *race* in accessing bodies of political representation and in the exercise of public functions" in its 3rd article.

The types of VAWIP as defined by the Brazilian law are imprecise because the legislation does not contain a list of examples and practices of this kind of violence (FERREIRA; RODRIGUES; CUNHA, 2021; FRANCISCO, 2022; PINTO, 2021). Furthermore, the Law n. 14.192



fails to articulate a typology of violence against women in politics, e.g. physical, sexual, psychological, economic, and symbolic violence. This generic definition of VAWIP is especially risky if we consider the sexist culture still normalized in Brazil and the misogynist attacks women in politics have faced in the country in recent years (CARNEIRO, 2019; DOS SANTOS; JALALZAI, 2021; PINTO, 2021; RUBIM; ARGOLLO, 2018).

The Inter-American Model Law on Political Violence and Harassment against Women (COMISIÓN INTERAMERICANA DE MUJERES, 2017) is more specific as it mentions that VAWIP may include, but is not limited to, physical, sexual, psychological, moral, economic or symbolic violence (p. 23). Moreover, the Model Law includes the spheres of violence where VAWIP can take place, such as within the family or domestic unit in any public space – including social networks or committed by the state or its agents (p. 24). The detailed list of examples of violence against women in politics is another important section of the Model Law that is ignored by Law n. 14.192.

The list includes, for instance, threats or intimidation “in any way, one or several women and/or their families with the effect or purpose of limit her political rights one” (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 25). Other examples include references to any action that disseminates, physically or virtually, information about women in the exercise of their political rights “which on the basis of gender stereotypes transmits and/or reproduces relations of domination, inequality and discrimination against women, with the intent of diminishing their public image and/or limiting their political rights” (p. 25).

The Brazilian Law highlights VAWIP during the electoral period multiple times. Its first article, for instance, mentions norms to ensure the “participation of women in electoral debates” and crimes during the election campaign period (“Lei n. 14.192, de 4 de agosto de 2021”, 2021) and its fourth article refers to advertising in electoral propaganda or during the electoral campaign period. The Brazil legislation limits its scope to political candidates, with a focus on elected women, and within political parties. Hence, it does not include a number of situations where VAWIP may arise, and numerous victims remain “invisible” in the law. Furthermore, it may lead to the understanding that VAWIP only exists during the election campaign, a grave miscalculation (FERREIRA; RODRIGUES; CUNHA, 2021; KROOK, 2020).



## 2.1 Focus on the punitive system

The legal punishment of the perpetrators of VAWIP provided for in the Law n. 14.192 is imprisonment (one to four years) and a fine. Despite the importance of holding the perpetrators of this kind of violence accountable, the focus on the punitive system ineffectively addresses the behaviors that the law intends to prevent, repress, and combat. Moreover, as the authors of the VAWIP may be institutions such as political parties, non-governmental organizations, and legislative houses (DELGADO, 2022; MELO, 2022), it is unclear how the Brazil's Law would punish those legal entities (FERREIRA; RODRIGUES; CUNHA, 2021). The Instituto Marielle Franco adds to this criticism the fact that the Brazilian punitive system works in different ways according to the class and race of the individual who committed a crime.

Another gap that could jeopardize the application of the Law is the lack of administrative sanctions. These measures could include, for instance, the temporary suspension of activities of the perpetrator of VAWIP and accountability for administrative impropriety for the omissions of public agents in the treatment of complaints (PINTO, 2021, p. 67). Another penalty, as suggested by the Inter-American Model Law on the Prevention, Punishment and Eradication of Violence against Women in Political Life, can be the suppression of parliamentary privileges and immunity to public officials who are accused of VAWIP (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 35).

The Brazilian Law only identifies two measures to prevent violence against women in politics. In its fifth article, it determines that the party's Statute shall contain, among others, norms on the prevention, repression, and fight against political violence against women. This is an important advancement as it considers the integral role of the political parties to create measures that can directly impact to guarantee women a life free of political violence. This perspective connects the Law n. 14.192 to the Inter-American Model Law, as the regional document considers that political violence against women also occurs within political parties and they have an essential role in contributing to the end of the problem (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 18).

The sixth article alters the Elections Law regarding women participation in electoral debates. It aims to ensure the presence of an

equivalent number of candidates from all political parties running for the same elective office. This measure has an important preventive character, considering that in many cases women candidates are excluded from debates on mass media, an important space for electoral campaigns (FRANCISCO, 2022, p. 133–134).

Whereas the Brazil's Law does not present any other article related to preventing VAWIP, the prevention of violence against women is one of the guiding principles of the Inter-American Model-Law, as listed in its article seven (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 26). One of the preventive measures of the Inter-American Law is that the National Machineries for Women, in collaboration with electoral bodies, “will implement awareness-raising and prevention campaigns on violence against women in the political life, as well as education and promotion of their political rights in general and the application of this law in particular” (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 28).

Other measures suggest that the issue of violence against women in political life must be included in the electoral body's training and education programs as well as implemented in “periodic campaigns based on the prevention and eradication of violence against women in the political life, and evaluate its impact” (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 29). Educational measures have significant potential for cultural changes and in the preparation of the public agents, so that they can adequately investigate situations of violence (FRANCISCO, 2022, p. 128).

The Law n. 14.192 also lacks protective and reparation measures for women who are victims of VAWIP. On the other hand, the Model Law has specific sections with protection measures and reparations that shall guarantee the victim's rights. The guarantees of protection section includes assigning bodyguards to women in situations of violence and their family members, when necessary; restricting the aggressor's access to places the victims frequents, and suspending the aggressor from public office or employment (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 34). Measures of reparation involve immediate restitution to the office from which a politician was forced to resign on grounds of political violence; compensation of the victim; and the retraction of offenses against women in situations of violence, among others (COMISIÓN INTERAMERICANA DE MUJERES, 2017, p. 36).

In sum, while Law n. 14.192 is an important step towards protecting women's right to participate in the political process, the language of the law has the potential of diminishing its impact. Compared to efforts across the Americas and to the Inter-American Model Law, the Brazilian Law overemphasizes the electoral process and punitive measures while initially undermining efforts to address VAWIP in other contexts outside of campaigning and strengthening prevention efforts. It will be work from key governmental entities and civil society that have the potential of utilizing the tools provided by the Law in order to truly address VAWIP in Brazil. While it is too early to say if Law n. 14.192 will be successful, it is possible to observe some key actions taken since its implementation in 2021.

### 3 Initial analysis

The sanctioning of Law n. 14.192 happened without much fanfare. The usual press releases from government bodies directly connected to the law (such as the Chamber of Deputies, Senate, Electoral Superior Court [TSE], and Federal Public Prosecutor's Office [MPF]) was followed by a few mentions about the law in the regional and national media (ANDRADE, 2021; CAIXETA, 2021; "Partidos têm até sexta para adotar ações contra violência política à mulher", 2021). Then, as the 2022 election drew closer, there was a small renewed interest in the role of the law in the campaign of women candidates (ALMEIDA, 2022; CAMAZANO, 2022; DELGADO, 2022). In between, some trade publications and blogs also brought some attention to the new law (BURIN; MORETZSOHN, 2021; GRUNEICH; CORDEIRO, 2021; GRUNEICH; DOS SANTOS, 2022; MELO, 2022; PETER, 2021). Nevertheless, like most new laws, public awareness was and is limited.

Prior to the election, the TSE and MPF announced, in September of 2022, a joint effort to combat gender-based political violence ("TSE e MP Eleitoral assinam acordo para enfrentar a violência política contra a mulher", 2022). It is interesting to note that while the language of Law n. 14.192 uses the word women throughout, the efforts by the TSE and MPF use the expression *violência política de gênero* (gender-based political violence) in some of their press releases and materials. The main objective of this joint effort is to develop both an educational campaign for various stakeholder and a robust complaint infrastructure.

It is too early to know the impact of the law and the actions taken by TSE and MPF. As of November of 2022 (the end of the electoral cycle), the MPF received and analyzed 112 complaints of VAWIP (DELGADO, 2022; MELO, 2022). The number of complaints received is likely much higher, since the complaint system is still fragmented at the state level. Moreover, education campaigns among various stakeholders will take time to be fully implemented.

While the initial focus was educating political parties and civil society on understanding VAWIP and the new law, it will be important to emphasize the central role political parties will play in ensuring the success of Law n. 14.192. The patriarchal nature of Brazil's political system (DE MELO; THOMÉ, 2018; DOS SANTOS, 2021), the documented hostility toward women in political office perpetrated by men in politics (BIROLI, 2016; JALALZAI et al., 2022; RUBIM; ARGOLO, 2018), and the well-established history of political parties skirting laws and initiatives trying to address women's under-representation in politics (SACCHET, 2020; WYLIE, 2018) indicate that the path to enforcing Law n. 14.192 will be a difficult one.

## Conclusion

Much more needs to be done regarding implementation to ensure that Law n. 14.192 is not another law on paper only. Implementation requires continuous effort from regulating bodies, political parties, and civil society to be vigilant in punishing perpetrators of violence against women in politics, holding them accountable for their actions, and better positioning the law to serve as a mechanism to decrease instances of VAWIP. The ambiguity in parts of the law will require a continuous effort from stakeholders in developing a framework that is narrower in scope while addressing the issue of gender-based political violence.

Initial anecdotal evidence shows that some state public prosecutors are investigating cases of VAWIP. Future research should, when data becomes available, dig deeper on state-level variations in the number of complaints and the number of investigations of VAWIP. Given the ambiguity of the language of the law, better understanding different interpretations of what constitutes VAWIP will be essential for social scientists, legal scholars, and practitioners. As evidenced by the already established initiatives of TSE, MPF, and sectors of civil

society, educating political parties, other organizations, and the public in general about Law n. 14.192 should be a major focus in the next years.

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