



**MISSION PERMANENTE DU BRESIL AUPRES DE L'OFFICE DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS INTERNATIONALES A GENEVE**

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The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honor to refer to the letter JOL BRA 02/25, dated 11 March 2025, by the Working Group on discrimination against women and girls; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extrajudicial, summary or arbitrary Executions; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance.

The Permanent Mission of Brazil in Geneva would like to forward the attached observations of the Government of Brazil regarding the aforementioned letter.

The Permanent Mission of Brazil in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 14th March, 2025.

To the Office of the United Nations High Commissioner for Human Rights (OHCHR);

E-mail: ohchr-registry@un.org

The present report compiles information in response to letter OL BRA 2/25, dated 11/3, through which the Office of the United Nations High Commissioner for Human Rights forwarded a request from the Working Group on Discrimination against Women and Girls; the Special Rapporteur in the field of Cultural Rights; the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; and the Special Rapporteur on Contemporary Forms of Racism.

The request concerns inquiries regarding the progress of Bill 1904/2024 and Constitutional Amendment Proposal 164/2012, currently under consideration in the National Congress, which aim to criminalize abortion in the country.

In their letter, the rapporteurs specifically request the State to provide the following information:

- Provide any additional information and/or comments that may be available regarding the above-mentioned allegations.
- Provide information on any measures the government will take to ensure compliance with international human rights standards and international consensus regarding the decriminalization of abortion.
- Provide detailed information on how the government intends to proceed concerning the aforementioned bill and constitutional amendment proposal, which appear to contradict Brazil's international human rights obligations.
- Provide details on how the government assesses the potential impact of the aforementioned bill and constitutional amendment proposal on victims of sexual violence, particularly children, Indigenous women and girls, Afro-descendant women and girls, and those living in rural and peripheral areas, who often experience delays in accessing abortion services.
- Provide information on how women and girls, who would be the primary individuals affected by these legislative proposals, were consulted and meaningfully participated in the decision-making processes, as well as on any impact assessments conducted before the introduction of these legislative measures.

In response to the above-mentioned inquiries, it is important to highlight that, in Brazil, abortion is considered legal in three cases, the first two provided for in the Penal Code and the third established through a ruling by the Federal Supreme Court:

1. Risk to the life of the pregnant person (Article 128, I, Penal Code);
2. Pregnancy resulting from sexual violence (Article 128, II);
3. Fetal anencephaly and other malformations incompatible with extrauterine life (Fundamental Precept Violation Action – ADPF 54).

The law supports the decision to terminate a pregnancy in these three situations, requiring only the presence of one of these conditions. It is important to emphasize that there is no legal gestational time limit for performing an abortion.

In response to Fundamental Precept Violation Action (ADPF) No. 989, the Ministry of Health (MS) issued Joint Technical Note No. 37/2023-SAPS/SAES/MS, which aligns with current

scientific evidence and the latest recommendations from the World Health Organization on the matter, as well as relevant manuals, publications, and debates led by key civil society actors.

The document reinforces the terminology recognized by the Ministry of Health, stating that the term “legal abortion” has been indexed in health descriptors since 1964 (DeCS/MeSH) and is defined as “the termination of pregnancy under conditions permitted by local legislation.” This applies to the three legal grounds in Brazilian law: pregnancy resulting from rape, risk to the woman’s life, and fetal anencephaly.

Regarding gestational time limits, the document states that no such restriction is outlined in the Brazilian Penal Code: “The WHO also emphasizes that denying women and girls essential aspects of medical care in abortion cases—such as support, pain management, or treatment for incomplete abortion—as a form of punishment constitutes a violation of human rights.”

With regard to the bill and constitutional amendment proposal referenced in letter OL BRA 2/2025, it should be noted that both are still under consideration in the National Congress and must undergo multiple stages of debate before potentially being put to a final vote in the Legislative Branch. Emphasizing the independence of the three branches of government (Executive, Legislative, and Judiciary), the Brazilian government reiterates its opposition to Bill No. 1904/2024 and Constitutional Amendment Proposal No. 164/2012, as previously stated in various technical documents. The government considers both proposals to have a severe negative impact on the sexual and reproductive rights of women and girls, contradicting Brazil’s international human rights commitments.

Bill 1904/2024, by equating abortion with simple homicide in pregnancies beyond 22 weeks—including in cases of rape—violates core constitutional principles, such as human dignity and the prohibition of cruel and degrading treatment. The proposal relies on criminal legislation as a simplistic response to complex social issues. However, its approval would cause severe re-victimization of women and girls who have already suffered sexual violence, further restricting access to legal and safe abortion, in direct contradiction to international human rights standards and treaties to which Brazil is a party.

The Federal Constitution establishes the absolute priority of protecting the rights of children and adolescents (Article 227), ensuring their right to be protected from all forms of violence, including sexual violence. Criminalizing abortion in cases of rape would not only violate constitutional principles but also conflict with legal advances such as Law No. 13,431/2017 (the Protected Hearing Law), which establishes guidelines for the comprehensive protection of victims of violence.

Constitutional Amendment Proposal 164/2012, in turn, by adopting the concept of life beginning at conception, unilaterally imposes a particularist perspective on human rights upon society. This contradicts rulings by both the Inter-American Court of Human Rights and the Federal Supreme Court, which have recognized the necessity of ensuring access to reproductive health services and protecting women's fundamental rights. Its approval would render unconstitutional the current legal framework that allows pregnancy termination in cases of rape, risk to the pregnant person's

life, and fetal anencephaly, leading to regressive measures incompatible with Brazil's international commitments.

Thus, the Brazilian government reaffirms its opposition to both legislative proposals and underscores the need for an approach that prioritizes the protection of women's and girls' rights, in accordance with the principles of the Federal Constitution and International Human Rights Law.