

Mandates of 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 intolerance

Ref.: OL BRA 2/2025
(Please use this reference in your reply)

11 March 2025

Excellency,

We have the honour to address you in our capacities as Working Group on discrimination against women and girls; Special Rapporteur in the field of cultural rights; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 50/18, 55/5, 53/4 and 52/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the Bill (*Projeto de Lei*) 1904/2024, which seeks to amend the Penal Code to criminalize the termination of pregnancies over 22 weeks, including in cases of pregnancies resulting from rape, as well as the admissibility of the Constitutional Amendment Proposal (*PEC*) 164/2012, which aims to amend article 5 of the Federal Constitution to establish that the right to life must be guaranteed from conception.**

We already communicated with your Government regarding the enjoyment of sexual and reproductive health rights in our previous communications to Brazil ([OL BRA 9/2020](#) and [AL BRA 1/2023](#)). We thank your Excellency's Government for the reply received to the first communication.

According to the information received:

In June 2024, the Chamber of Deputies approved a requirement to expedite the review process for Bill 1904/2024. This legislative action prompted a strong response from Brazilian civil society. The Bill, if enacted, would amend article 128 of the Penal Code to criminalize the termination of pregnancies over 22 weeks of gestation, regardless of circumstances currently authorized by law, such as rape or threat to the life of the woman. The proposed penalties are equivalent to those for the crime of simple homicide, with imprisonment between six and twenty years. At present, termination of a pregnancy is only legally allowed in three circumstances: in cases of rape, when the woman's or girl's life is at risk, or when the foetus suffers from anencephaly – a rare condition that prevents part of the brain and skull from developing. In such cases, there is no gestational limit for interrupting a pregnancy.

On 27 November 2024, the Constitution, Justice, and Citizenship Committee of the Chamber of Deputies approved, by 35 votes to 15, the admissibility of the Constitutional Amendment Proposal 164/2012, which aims to amend article 5 of the Federal Constitution concerning fundamental rights, to establish that the

right to life must be guaranteed from conception, placing additional legal and procedural barriers to accessing reproductive health services.

We express grave concern that Bill 1904/2024 and the Constitutional Amendment Proposal 164/2012, if adopted, may further infringe upon internationally agreed standards relating to women's and girls' dignity and rights, including the rights to life, health, equality, non-discrimination, and privacy, as well as the right to live free from violence and the right to freedom from torture and cruel, inhuman, and degrading treatment, as stipulated in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both acceded to by Brazil in 1992, the Convention against Torture ratified by Brazil in 1989, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) ratified by Brazil in 1984, the Convention on the Elimination of Racial Discrimination (CERD) ratified by Brazil in 1968 and the Convention on the Rights of the Child ratified by Brazil in 1990.

Continued and expanded criminalization of abortion, including as proposed for pregnancies over 22 weeks, would further affect various rights of women and girls, putting their lives and health at risk. Girls, who make up a large proportion of those who seek abortion services at a later stage of pregnancy, especially where it takes longer to discover or identify the pregnancy, or when it derives from sexual violence, would be disproportionately affected by these provisions. We recall that child and adolescent pregnancies pose significant risks to their lives and may have long-lasting consequences for their mental and physical well-being.¹ Girls aged 15-19 years are twice as likely to die during childbirth as women 20 years old and above ([UNFPA](#)). There is evidence that adolescent mothers (aged 10-19 years) face higher risks of eclampsia, puerperal endometritis and systemic infections ([WHO](#)).

In its 2015 concluding observations on the 2nd-4th periodic reports of Brazil (CRC/C/BRA/CO/2-4), the Committee on the Rights of the Child noted the high and increasing rates of pregnancy, particularly among girls aged 10 to 14 years who are in socioeconomically vulnerable situations. The Committee recommended decriminalizing abortions for pregnant children in all circumstances and reviewing its legislation with a view to ensuring access to safe abortion and post-abortion care services and ensuring that the views of the child are heard and respected in abortion decisions.

We have, along with other experts, concluded that intersecting forms of discrimination, including race, socio-economic status, age, gender identity, and/or other conditions, affect the degree of control individuals have over realizing their sexual and reproductive health rights. We note in this regard that certain populations, including Indigenous women and girls, women and girls of African descent, and those living in rural and peripheral areas, particularly in the North and Northeast regions of Brazil, may be disproportionately affected by these legal proposals, if adopted. As highlighted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, following her visit to Brazil in August 2024, sexual violence and rape are concerningly prevalent forms of violence against women from

¹ According to the Live Birth Information System (SINASC) from the Ministry of Health, in 2023, 13,941 babies were born from girls aged up to 14. Ministry of Health, Life Birth Information System, available at: [Painel de Monitoramento de Nascidos Vivos - Plataforma Integrada de Vigilância em Saúde - Ministério da Saúde](#)

marginalized racial and ethnic groups in Brazil. The Special Rapporteur noted the high level of sexual violence and the disproportionate impact on women and girls from marginalized racial and ethnic groups, especially those of African descent, as well as Indigenous and Quilombola women and girls.² Such forms of violence may lead to women and girls requiring abortion services for unwanted pregnancies.

In its 2022 concluding observations on the 18th-20th periodic reports of Brazil (CERD/C/BRA/CO/18-20), the Committee on the Elimination of Racial Discrimination urged Brazil to address racial and ethnic disparities in reproductive healthcare and to ensure that all Afro-Brazilian, Indigenous and Quilombola women can access legal voluntary termination of pregnancy under safe and dignified conditions without harassment or efforts to criminalize them or their medical providers. In a similar vein, in its 2023 concluding observations on the 3rd periodic report of Brazil, the Committee on Economic, Social and Cultural rights recommended to ensure the accessibility and availability of appropriate, good-quality sexual and reproductive health-care services and information, for example access to safe abortion services, including abortion medication, contraception and emergency contraception, for all women and adolescent girls in Brazil, in particular those living in rural or remote areas (E/C.12/BRA/CO/3).

We stress that denying women access to services which primarily they require, and failing to address their specific health and safety, including their reproductive and sexual health rights, are inherently discriminatory and prevent women from exercising control over their own bodies and lives (A/HRC/32/44). Similarly, laws criminalizing abortion infringe on women's dignity and autonomy by severely restricting decision making by women in respect of their sexual and reproductive health (A/66/254). In this respect, we would like to remind your Excellency's Government of its obligations under CEDAW, in particular article 2, which obliges States to respect, protect and fulfil the right to non-discrimination of women and to ensure the development and advancement of women in order to improve their position and implement their right of de jure and de facto equality with men. Apart from this comparative approach, the right to substantive equality also requires a transformative approach that tackles the structural conditions of discrimination that facilitate violations of women's and girls' sexual and reproductive health rights, especially of those who experience greater barriers to access them, as referred to above. Decriminalizing abortion is one of the measures to address such structural conditions.

Human rights bodies have repeatedly called for the decriminalization of abortion in all circumstances. In this regard, the experts recall that the decriminalization of abortion is essential for safeguarding human rights and that the right to terminate a pregnancy is at the core of women's and girls' fundamental rights to equality, dignity, autonomy, bodily integrity, and respect for private life. Criminalizing sexual and reproductive health services perpetuates stigma, restricts women's access to vital services and information, and hinders their participation in society (CEDAW/C/GC/35). The Working Group on discrimination against women and girls has emphasized that the "right of a woman or girl to make autonomous decisions about

² Visit of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to Brazil 5 to 16 August 2024: End of visit statement. Available at: <https://www.ohchr.org/sites/default/files/documents/issues/racism/sr/statements/20240816-eom-stm-brazil-sr-racism.pdf>

her own body and reproductive functions is at the very core of her fundamental right to equality and privacy, involving intimate matters of physical and psychological integrity, and is a precondition for the enjoyment of other rights” (A/HRC/38/46). The CEDAW Committee, in interpreting articles 12(1) and 16(1)(e) of CEDAW, has consistently recommended the decriminalization of abortion in all cases, stressing that criminalizing abortion does not serve as a deterrent. In its 2024 concluding observations on the 8th and 9th periodic reports of Brazil (CEDAW/C/BRA/CO/8-9), the CEDAW Committee recommended the legalization and decriminalization of abortion in all cases, ensuring women and girls have safe access to abortion and post-abortion services to guarantee their reproductive rights, and their equality, and economic and bodily autonomy.

Criminalizing abortion in all circumstances would likely result in an increase in unsafe and clandestine abortions, restricting women’s and girls’ decision-making about reproductive health and putting their lives even more at risk. In its 2023 concluding observations on the 2nd periodic report of Brazil, the Committee against Torture noted that the continued criminalization of abortion results in many women and girls resorting to clandestine and unsafe abortions that put their lives and health at risk. The Committee recommended that Brazil review its Criminal Code to decriminalize the voluntary termination of pregnancy, ensure that all women and girls, including those belonging to disadvantaged groups, have access to legal voluntary termination of pregnancy under safe and dignified conditions without harassment or efforts to criminalize them or their medical providers, and guarantee health care for women after they have had an abortion, regardless of whether they have done so legally or illegally (CAT/C/BRA/CO/2).

We consider that the legal proposals, if adopted, may infringe upon the rights of women and girls to the highest standard of physical and mental health. We underscore that denial of access to safe abortion services can cause tremendous pain and suffering and have long-lasting consequences for mental and physical wellbeing. Article 12 of ICESCR obliges States to realize the right of everyone, including women and girls, to the highest attainable standard of health, including an obligation on the part of all States Parties to ensure that measures are taken to ensure that access to health services is available to all, especially the most vulnerable or marginalized sections of the population, without discrimination. The Committee on Economic, Social and Cultural Rights has clarified that States have an obligation to “respect, protect, and fulfill the right of everyone to sexual and reproductive health,” which includes “not limiting or denying anyone access to sexual and reproductive health, including through laws criminalizing sexual and reproductive health services and information” (E/C.12/GC/22).

In its report to the Human Rights Council (A/HRC/32/44) and its [position paper](#) on Women’s Autonomy, Equality, and Reproductive Health, the Working Group on discrimination against women and girls emphasized that abortion is a health care issue. States have an obligation to ensure women's equal access to healthcare services, eliminate discrimination, and to provide autonomous, affordable care while dismantling barriers that prevent women from enjoying the highest attainable standard of physical and mental health, including through due diligence. Furthermore, the importance of safe, legal, and accessible abortion services as a key component of public health and human rights are also stressed by the World Health Organization (WHO) in its comprehensive [Abortion Care Guidelines](#). Data from WHO have also demonstrated that

criminalizing termination of pregnancy does not reduce the number of abortions; countries where women have the right to terminate pregnancy and are provided with access to information and to all methods of contraception, have the lowest rates of termination of pregnancy.

We noted the lifelong impact of forced maternity on girls, as well as women, and underscore that under international human rights law failure to ensure safe access to abortion services, particularly in cases of rape, may amount to gender-based violence and a violation of the right to life and the right to be free from torture, cruel, inhuman or degrading treatment (CEDAW/C/GC/35). The Human Rights Committee has stressed that, although States parties may adopt measures designed to regulate voluntary terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or girl nor jeopardize their lives, subject them to physical or mental pain or suffering, discriminate against them or arbitrarily interfere with their privacy (CCPR/C/GC/36).

In cases such as *Mellet v. Ireland* and *Wheland v. Ireland*, the Human Rights Committee held that prohibiting and criminalizing abortion can amount to cruel, inhuman, and degrading treatment and can result in discrimination against women. In a recent case, *Camila v. Peru*, the Committee on the Rights of the Child found that failure to provide an indigenous and rural girl victim of rape with information and access to legal and safe abortion resulted in a violation of the rights to health and life. Among other things, the Committee recommended to decriminalize abortion in all cases of child pregnancy and ensure access to safe abortion services and post-abortion care for pregnant girls, particularly in cases of risk to the life and health of the mother, rape or incest. Furthermore, we must stress the relevance of the recent findings of the Human Rights Committee in the cases of *Norma v. Ecuador*, *Susana v. Nicaragua* and *Lucia v. Nicaragua*, which concluded that the forced pregnancy of girl survivors of sexual violence, forcing them to bring their pregnancies to term and to raise children born out of rape, amounts “to more than denial of choice,” and it also constitutes a violation of the right to life with dignity and the right to be free from torture, cruel, inhuman, and degrading treatment.

Denying abortion to pregnant women and girls resulting from rape and incest risks exacerbating their trauma as well as their mental and physical suffering, thereby subjecting them to additional psychological forms of violence which may also constitute torture or cruel or inhuman suffering. Laws denying access to abortion to women victims of rape are a violation of their right not to be subjected to torture or ill-treatment (A/HRC/31/57). As a consequence of their international obligations to prohibit torture, States have an affirmative obligation to reform restrictive abortion laws that perpetuate torture and ill-treatment by denying women access to safe abortion and care.

Criminalizing abortion in all circumstances would also prevent healthcare providers from delivering their services freely, without risking prosecution themselves. States should ensure that services are effectively available without adverse consequences to the woman or the health professional (A/HRC/22/53). In its 2023 concluding observations on the 3rd periodic report of Brazil, the Human Rights Committee also recommended that Brazil repeal the laws that impose criminal punishment upon women and girls who undergo legal abortions and upon physicians

assisting them (CCPR/C/BRA/CO/3).

We recall that cultural or religious traditions or interpretations cannot justify human rights violations. Specifically, we would like to draw your Excellency's Government's attention to article 5 of CEDAW, which requires State parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to eliminating prejudices and practices based on the idea of inferiority or superiority of either sex. While we are committed to upholding freedom of religion or belief as a human right to be protected, we regret the challenges to women's and girls' rights and gender equality in the name of religion. We reiterate that freedom of religion or belief should never be used to justify discrimination against women and girls (A/HRC/29/40; A/HRC/38/46).

We would also like to refer to article 15 of the ICESCR on the right of everyone to take part in cultural life, and to refer to the report of the Special Rapporteur in the field of cultural rights on the cultural rights of women, which states that women have the right to transform existing cultural patterns and thinking. The right to take part in cultural life implies that women must become equal participants and decision makers in all the cultural affairs of their own specific communities, and in the wider "general" society, in social, economic and political life, including in the decision-making processes in these arenas (A/67/287).

Furthermore, we would also like to take this opportunity to draw your Excellency's Government attention to the in the [Amicus Brief](#) submitted in 2017 to the Supreme Court of Brazil prepared by a group of Special Procedures' mandate holders.

Finally, we are encouraged by Brazil's commitments during the fourth cycle of the Universal Periodic Review (UPR) to ensure access to sexual and reproductive health care and services, including high-quality prenatal care, and information on sexual and reproductive health, contraception and emergency contraception and safe abortion to all women without discrimination by accepting the relevant recommendations on this matter (A/HRC/52/14). We call on your Excellency's Government to pay closer attention to the human rights violations and ill-effects of unnecessary restrictions on access to comprehensive reproductive health.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on any measures your Excellency's Government will take to ensure its compliance with international human rights law and the international consensus regarding the decriminalization of abortion.
3. Please provide detailed information on how the Government intends to proceed with regard to the aforementioned Bill and proposed Constitutional Amendment which seems in contradiction with Brazil's

international human rights obligations.

4. Please 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, women and girls of African descent and those living in rural and peripheral areas who often experience delayed access to abortion services.
5. Please provide information on the manner in which women and girls, who would be the first concerned by these legislative proposals, have been consulted and have meaningfully taken part in the decision-making processes, as well as about all impact assessments that were conducted before introducing these proposed legislative measures.

Taking into consideration the above-mentioned international human rights standards, we strongly urge your Excellency's Government to reconsider Bill 1904/2024 and the Constitutional Amendment Proposal 164/2012 and to reject any proposal that may restrict access to sexual and reproductive rights for women and girls. We remain at your disposal to provide any technical assistance to the authorities upon request.

We would be grateful if this letter could be shared as soon as possible with the members of the National Congress of Brazil, including the Presidency of the National Congress.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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