

# Against the Right to Abortion in Brazil: Neoconservative Attacks on the Three Branches of the State

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## ABSTRACT

This article analyzes recent neoconservative practical and discursive attacks targeting the branches of the Brazilian State, aiming specifically to undermine reproductive rights. Particular attention is given to developments since 2019, a period marked by intensified anti-abortion efforts following Jair Bolsonaro's election and the substantial increase in far-right representation within Brazil's National Congress. These attacks have been predominantly driven by politicians and public officials closely aligned with Christian religious fundamentalism and patriarchal ideology. Within the Legislative Branch, the analysis highlights proposals such as Bill 1904 of 2024, which has become emblematic in revealing deliberate strategies aimed at eliminating all exceptions to abortion criminalization. Within the Executive Branch, the article describes systematic obstacles to the legal implementation of abortion, underscoring troubling alliances between healthcare professionals, professional councils, and the criminal justice system in investigating and punishing both self-induced abortions and abortions performed with the consent of the pregnant individual. The Judiciary is examined through pending legal decisions on critical issues such as medical confidentiality, regulation of the medical procedure of fetal asystole, the identified "unconstitutional state of affairs" surrounding legal abortion access, and established protocols for abortion care for rape survivors. As demonstrated throughout this analysis, based on rigorous content analysis of legislative documents, bills, institutional actions, and organized resistance by social movements, the scope of these attacks extends far beyond mere moral agendas. They actively contribute to the destabilization of democratic institutions and represent significant setbacks for social justice.

## KEYWORDS:

ABORTION, CRIMINAL CODE, BRAZIL, RELIGIOUS FUNDAMENTALISM, NEOCONSERVATISM

## RESUMEN

El artículo analiza algunos ataques práctico-discursivos neoconservadores a los Poderes del Estado brasileño, contra los derechos sexuales y reproductivos, realizados por políticos y gestores de la administración pública alineados al fundamentalismo religioso cristiano y al patriarcado. En el ámbito del Poder Legislativo se presentan propuestas, en particular el Proyecto de Ley 1904, de 2024, que se ha vuelto emblemático por exponer la estrategia para la revocación de cualquier causal de exclusión del delito de aborto. En el ámbito del Poder Ejecutivo, se describen los obstáculos a la realización del aborto por vía legal y la eficiencia del sistema de justicia penal, incluido el promovido por los profesionales de la salud y los consejos profesionales, para investigar y sancionar el aborto autoinducido y el aborto inducido por otros con el consentimiento de la mujer embarazada. En el ámbito del Poder Judicial se examinan cuestiones pendientes de decisión como el secreto médico, la regulación del acto médico de asistolia fetal, el "estado de cosas inconstitucional" del aborto legal y los protocolos de aborto para víctimas de violación. Estos ataques van más allá de una mera agenda moral. Contribuyen a desestabilizar las democracias y la justicia social. Al fin y al cabo, ponen en tela de juicio las garantías de una vida digna para las minorías, los derechos individuales, el principio de laicidad y la igualdad como valor civilizatorio.

## PALABRAS CLAVE:

ABORTO, DERECHO PENAL, BRASIL, FUNDAMENTALISMO RELIGIOSO, NEOCONSERVADURISMO

## RESUMO

O artigo discute algumas investidas prático-discursivas neoconservadoras nos Poderes do Estado brasileiro, contra os direitos sexuais e direitos reprodutivos, movidas por políticos e gestores da administração pública alinhados ao fundamentalismo religioso cristão e ao patriarcado. No âmbito do Poder Legislativo, são apresentadas proposições, em especial o Projeto de Lei 1904, de 2024, o qual se tornou emblemático por desnudar a estratégia pela revogação de qualquer causa de exclusão do crime de aborto. No âmbito do Poder Executivo, são descritos obstáculos à realização do aborto em lei e a eficiência do sistema de justiça criminal, inclusive fomentada por profissionais de saúde e conselhos profissionais, para investigar e punir o autoaborto e o aborto provocado por outrem com o consentimento da gestante. No âmbito do Judiciário, são examinadas questões pendentes de decisão, como o sigilo médico, a regulamentação do ato médico de assistolia fetal, o "estado de coisas inconstitucional" do aborto legal e protocolos para o aborto às vítimas de estupro. Essas investidas vão além de mera pauta moral. Contribuem para desestabilizar as democracias e a justiça social. Afinal, colocam em xeque as garantias da vida digna para minorias, dos direitos individuais, do princípio da laicidade e da igualdade como valor civilizatório.

## PALABRAS-CHAVE:

ABORTO, BRASIL, CRIME, FUNDAMENTALISMO RELIGIOSO, NEOCONSERVADORISMO

## Introduction

The debate surrounding abortion in Brazil has grown increasingly polarized, shifting away from the public health considerations that characterized the discussion in the early 2000s (Oliveira, 2017; Teixeira & Valente, 2021) and marked the advancement of feminist advocacy. Currently, the debate is dominated by a regressive mobilization grounded in religious and dogmatic beliefs, which prioritize the abstract life of embryos or fetuses over the concrete lives of the women, girls, and other pregnant individuals.

In general, the opposition to the advancement of rights, social justice for minorities, and policies aimed at gender equity have unified diverse<sup>1</sup> conservative groups, fueling political leaderships and authoritarian initiatives in Europe and the Americas (Biroli, 2019). Nevertheless, how these agendas have been adopted and adapted differs from one country to another. In Latin America, this phenomenon has been called "conservative moral activism". According to Juan Marco Vaggi-one (2024), it involves a broad array of instrumental actions and theoretical contestations disseminated across both the public and private spheres, aiming to safeguard established gender roles, economic liberalism, and the traditional family and Christian religious values – all perceived as endangered by contemporary right-wing claims. The considerable dynamism and constant change of this conservative moral activism require new conceptual refinement and challenge us to critically examine it from its shifting boundaries.

To better understand the phenomenon of anti-abortion offensives in Brazil, this article discusses recent and coordinated movements occurring within the three branches of government: the legislative, the executive, and the judicial. To do so, it departs from the recognition that in Brazil, conservative Catholics and Evangelical groups have joined forces to block advances in sexual and reproductive rights, redefining the meaning of rights and public policies, and even legitimizing forms of censorship. This unusual political alliance gained momentum in the lead-up to Jair Bolsonaro's presidency (2019–2022), playing a significant role in his election (Nunes, 2023). Consequently, these anti-gender agendas became anti-liberal and antidemocratic policies, promoted and implemented by government officials elected by a significant portion of the electorate<sup>2</sup>.

To better understand the phenomenon of abortion restrictions in Brazil, this article examines recent and coordinated movements across the three branches of the State: legislative, executive and judiciary.

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The current conservatism is not original in its opposition to equal rights and the legal recognition of sexual diversity. The notion of neoconservatism thus refers not to its content but to patterns of mobilization, its reinforcement of illiberal trends, its contribution to justifying authoritarian measures, and its role in naturalizing inequalities. An important point to highlight is that neoconservatism strengthens its public identity through antagonism toward feminism as a collective political actor, in a context where feminist movements have become more prominent and widespread (Biroli, 2019, p. 86).

It is crucial to bear in mind that neoconservative movements use "conservative moral activism" to reinforce a privatized and morally traditional notion of the family, within which the liberalization of abortion becomes unthinkable. As Melinda Cooper (2017) highlights, the family emerges as the intersection between the economic and moral dimensions of democratic regression and social injustice. At the core of this setback lies an authoritarian form of citizenship, characterized by indifference towards threats to the rule of law, the erosion of guarantees of dignified life for those deemed inferior, and to the dismantling of essential public infrastructure. Politicians, in turn, gravitate toward a punitive approach to governing interpersonal and social conflicts, continuously expanding the criminalization of conduct and intensifying sanctions.

<sup>1</sup> There are several facets to what is referred to here as the conservative field, including within right-wing and far-right groups, both globally and in Brazil. This political spectrum has undergone numerous transformations throughout history, but it remains aligned against socialism/communism, social and progressive change, and, in its more radical tendencies, reveals itself to be anti-democratic, in favor of rigid traditional values and authoritarianism, often enforced through militarism (Ruz, Keyser & Cotas, 2015; Löwy, 2015).

<sup>2</sup> In the 2018 presidential elections, far-right candidate Jair Bolsonaro won with 55% of the valid votes against auto-declared left-wing candidate Fernando Haddad, who received almost 45% of the valid votes. In 2022, in the elections for state governors and the Federal District, 22 of the 26 elected were on the right-wing ideological spectrum.

The alliance between the right and far-right aims primarily to relegate women to the domestic roles, reinforcing their positions as mothers despite the increased burdens they face due to the commodification of essential areas such as education, healthcare, and housing, and the simultaneous weakening of public welfare policies and services (Cooper, 2017). In this context, women's bodies and minds are subjected to male authority, justified as the protection of childhood and the family, in utter blindness to how the intersectionality of the multiple forms of violence imposed impacts them. Thus, framing gender equality, sexuality, and feminism as threats to patriarchal family structures has emerged as a central neoconservative strategy to garner popular support, converge federal executive actions under Bolsonaro's government (2019-2022), and consolidate the legal-legislative field against reproductive rights, as will be discussed throughout this article.

For this purpose, the neoconservative offensive seeks to establish legal personhood for the fetus and fertilized eggs and embryos, thus effectively sidelining discussions about women's rights and obstructing their claims for public policies. Furthermore, the criminalization of voluntary termination of pregnancy from the moment of conception becomes central, regardless of whether it results from rape or poses a threat to the life of the pregnant person, as will be presented in this article through legislative projects, actions in the executive branch, and decisions in the judiciary.

In addition to critically analyzing Bill 1904 through the lens of criminal law principles within a democratic state, this article identifies some of the strategies adopted by religious fundamentalism and patriarchy across Brazil's legislative, executive and judicial branches. The analysis is informed by a rigorous research methodology, based on content extracted from official documents, legislative proposals and institutional actions, emphasizing developments from the past six years – a period significantly shaped by the institutional rise of the far-right, symbolized by the election of Jair Bolsonaro to the presidency in 2019 and, concurrently, by the increased presence of similarly aligned politicians in the National Congress. The collected data underscores efforts to deprive women and other individuals capable of pregnancy and childbirth<sup>3</sup> of their autonomy over bodily decisions, and to further restrict the already stringent abortion legislation. The description and analysis unfold throughout the various sections of this article, drawing from feminist theoretical frameworks and a commitment to women's reproductive rights and autonomy (Ross & Solinger, 2017; Harding, 2015).

## 1. The Legislative Arena: Bill 1904 of 2024 as an Emblematic Example

Legislature has become one of the primary arenas for neoconservative disputes surrounding reproductive rights and anti-abortion rhetoric. Between 2021 and 2022, the Brazilian Parliament experienced a 50% increase in legislative proposals addressing abortion, the vast majority introduced by right-wing and far-right legislators (CFEMEA, 2023), often with the goal of expanding punitive measures. This shift coincides with what has been described as the most conservative parliament in Brazil's republican history (CFEMEA, 2023b). It is important to highlight that the legislature initiates changes to the legal system primarily through bills or constitutional amendment proposals, which undergo multiple stages of deliberation and revision within the National Congress before being approved, sanctioned and ultimately enacted.

Under the Brazilian Penal Code of 1940, induced abortion is generally classified as a criminal offense. Nevertheless, there are specific exceptions: abortion performed by a physician is not punishable if it is the only available means to save the pregnant person's life (Article 128, I) or if the pregnancy results from rape, provided the abortion is preceded by consent from the pregnant individual or, in case of incapacity, by their legal representative (Article 128, II). These situations are recognized in legal doctrine as exceptions to criminal liability. In 2012, the therapeutic termination of the pregnancy of anencephalic fetuses was considered lawful according to the Federal Supreme Court (STF) ruling in the Argument for Failure to Comply with a Fundamental Precept (ADPF) 54 (2004),<sup>4</sup> filed before the court, in view of the obligation imposed to bring pregnancies to term. However, notably, these exemptions are strictly limited to medical doctors, (Brazil, 1986)<sup>5</sup>.

<sup>4</sup>Anencephaly is a condition incompatible with life, without treatment, cure, or any possibility of fetal survival. The use of the term "therapeutic interruption of pregnancy" sought to distance itself from the term "abortion," reinforcing the idea that life exists in the other two cases of lawful exceptions. Therefore, this perspective is based on a religious opinion or belief, as there is no scientific consensus on when life begins. However, in legal or common language, anencephaly is often referred to as the third allowable abortion scenario.

<sup>5</sup>It is important to acknowledge that there are three instances that allow abortion to be carried out in healthcare services indicated in the Brazilian's Ministry of Health's Technical Note "Humanized Attention to Abortion" (Brazil, 2005), published in 2005 and updated in 2011.

The offensive against these already restricted rights is not new within Brazil's National Congress<sup>6</sup>. A particularly emblematic case emerged in 2024 with Bill 1904, widely referred to as the "Rape Bill"<sup>7</sup>. Introduced on May 17, 2024, by Representative Sóstenes Cavalcante and backed by 32 far-right legislators, including some female representatives, the bill<sup>8</sup> sought to amend sections of the Penal Code that define crimes related to abortion – specifically, self-induced abortion, abortion carried out with the pregnant individual's consent, and abortion performed without consent. Additionally, it targeted Article 128, II, directly challenging existing exceptions to criminal liability.

Under the argument of "relevance and urgent national interest of the matter", in a symbolic move, on June 12, 2024, the Chamber of Deputies Plenary approved a request for urgent processing of the proposed bill by Representative Sóstenes Cavalcante. This procedural decision enabled the bypass of the usual detailed review by the chamber's merit committees and precluded public hearings involving civil society and institutional stakeholders. The move sparked widespread outrage on social media. The Chamber of Deputies interactive communication department reported exceptionally high public interest with the bill, reaching 6.1 million views in five days. In addition, an online poll hosted by the Chamber's website recorded 1.07 million votes, with the vast majority (88%) strongly opposing the bill (Source: Câmara News Agency<sup>9</sup>). These findings align closely with a recent meta-analysis of public opinion on abortion in Brazil (2018-2023), which found that more than half of the population is against imprisoning women for abortion, suggesting potential openness toward decriminalization (SPW, CFEMEA, CESOP, 2023).

Although the Speaker of the Chamber of Deputies did not overturn the decision for urgent processing, the bill has since lost momentum due to public pressure and widespread embarrassment and remains stalled. A parliamentary request submitted on June 21, 2024, for a public hearing before the Commission on Social Security, Social Assistance, Childhood, Adolescence, and Family, is still pending. Public reaction was significantly amplified but the #CriançaNãoÉMãe (#Childs-NotMother) campaign, which underscored the severe repercussion of harsher penalties for abortion and the potential elimination of allowances for abortion beyond 22 weeks of pregnancy. This is particularly alarming in a country where rates of rape against children and adolescents are exceedingly high, with these crimes predominantly perpetrated by fathers, stepfathers, and close relatives, making them notoriously difficult to report, detect in the early stages of pregnancies, and prosecute the perpetrators (Bandeira & Almeida, 1999).

According to the Panorama of Lethal and Sexual Violence Against Children and Adolescents in Brazil, published in 2024 by UNICEF and the Brazilian Public Safety Forum (FBSP)<sup>10</sup>, a total of 164,199 cases of sexual violence against individuals under the age of 19 were reported between 2021 and 2023. The data illustrates a troubling upward trend, rising from 46,863 cases in 2021 to 53,906 in 2022 and reaching 63,430 in 2023 – equivalent to one incident every eight minutes (UNICEF & FBSP, 2024), which did not indicate a decrease and justify the reaction of public opinion.

In this context, pregnancies among girls under 14 present an especially alarming scenario. Between 2020 and 2023, 63,237 children became mothers in Brazil, with the highest concentration in the North and Northeast regions, according to SINASC/DATASUS<sup>11</sup> data analyzed by the Feminist Health Network (2024). Although these numbers represent a decline compared to the second decade of the 2020s, when annual pregnancies exceeded an average of 25,000, regional and racial inequalities have increased. The Feminist Health Network (2024, p.8) reports: "In the study for 2010–2019, the percentage of Black teenage mothers was 71.1%, rising to 75.6% in 2020, 75.5% in 2021, and 75.7% in 2022".

Equipped with this data, the #CriançaNãoÉMãe campaign, spearheaded by feminist and human rights movements and organizations, successfully garner significant public support. The

<sup>6</sup> Parliamentary proposals for harsher punishments for abortion have been increasing. According to a mapping by Flávia Biroli (2016), there were six such proposals in the 1990s, and between 2000 and 2015, at least 32 bills were proposed. In contrast, in the 1990s, there were six proposals aiming to legalize abortion, while only two were presented in the first decade and a half of the 2000s.

<sup>7</sup> This bill was ironically dubbed the "Rape Bill" by feminist movements for restricting access to abortion in cases of rape, thereby forcing victims of sexual violence to gestate and give birth. Furthermore, the bill provided for a greater penalty for rape victims than for rapists, as will be explained below.

<sup>8</sup> The bill was introduced on May 17, the same date on which Supreme Court Justice honorable Moraes suspended a regulation by the CFM that restricted legal abortion resulting from rape after 22 weeks (Casado, 2024) Available at: [https://noticias.uol.com.br/colunas/leticia-casado/2024/06/14/pl-aborto-moraes-cfm.htm?utm\\_campaign=olhar-apurado&utm\\_content=hyperlink-texto&utm\\_medium=email&utm\\_source=newsletter](https://noticias.uol.com.br/colunas/leticia-casado/2024/06/14/pl-aborto-moraes-cfm.htm?utm_campaign=olhar-apurado&utm_content=hyperlink-texto&utm_medium=email&utm_source=newsletter). Accessed on February 2, 2025.

<sup>9</sup> Available at: <https://www.camara.leg.br/enquetes/2434493/resultados>. Accessed on July 30, 2025.

<sup>10</sup> Access to the report in english: [https://www.unicef.org/brazil/media/33111/file/panorama-violencia-letal-sexual-contra-criancas-adolescentes-no-brasil\\_ingl%C3%AAs.pdf](https://www.unicef.org/brazil/media/33111/file/panorama-violencia-letal-sexual-contra-criancas-adolescentes-no-brasil_ingl%C3%AAs.pdf).

<sup>11</sup> Live Birth Information System (SINASC).

campaign garnered support from various child advocacy groups, organized mothers, and other social sectors, notably including civil police officers and religious movements.

Despite widespread mobilizations in various Brazilian capitals across following the approval of the urgency request of Bill 1904/24, the far-right faction within the National Congress persisted in its offensive, introducing three additional legislative proposals aimed at further regressing existing abortion rights (CFEMEA, 2024). The first of these, Senate PL 2524/ 2024, addresses the civil rights of the unborn, establishes an absolute presumption of fetal viability from the twenty-second week of pregnancy.

The second, PL 2499/2024, presented in the Chamber by a group of parliamentarians, many of whom also co-authored PL 1904/24, mandates that hospitals, clinics, and health units notify the police when a pregnancy resulting from rape is terminated. This type of proposal is not unprecedented and could potentially exacerbate the trauma experienced by rape victims by discouraging them from seeking essential healthcare services rather than protecting them (CFEMEA, 2024). Additionally, the bill requires the storage of embryonic or fetal genetic material fragments for potential genetic testing for paternity confirmation. This procedure can be used to question the credibility of the woman's testimony<sup>12</sup> and, in some cases, subject them into traumatic encounters, including direct confrontations with their perpetrator (Ibidem).

At the end of the first legislative semester of 2024, a third emblematic bill was presented: Constitutional Amendment Proposal (PEC) 29/2024. This proposal seeks to explicitly guarantee the inviolability of the right to life from the moment of conception, defined as the union of the male (spermatozoon) and female (ovum) gametes during fertilization, in an environment suitable for cellular development. The proposal, supported by more than 180 parliamentarians, ultimately aims to undermine the viability of in vitro fertilizations<sup>13</sup>.

On November 27, 2024, the threat intensified when the Commission on Constitution and Citizenship of the Chamber of Deputies determined, by majority vote, that there were no constitutional obstacles preventing PEC 164/2012 from proceeding normally through legislative channels. This proposal adopts the same strategy as PEC 29, aiming to amend Article 5 of the Federal Constitution to establish the inviolability of the right to life from conception. If enacted, it could provide for repealing current legal exceptions to abortion and negatively impact reproductive rights, such as in vitro fertilization and the medical use of embryonic stem cells – similar to what is proposed by the Statute of the Unborn (PL 478/2007), currently under congressional review. Given the present composition of the legislature, PEC 164/2012 has a substantial likelihood of being approved if brought to a plenary vote in the Chamber of Deputies. Such approval would likely result in judicial challenges, mirroring the situation that occurred in El Salvador, as an absolute prohibition of abortion contravenes the American Convention on Human Rights. Notably, in the case of *Beatriz vs. El Salvador*, the IACHR (2024) ruled that the lack of clear regulations and standards governing medical care in pregnancies threatening life or health violates the rights to physical integrity and health.

The previously discussed legislative proposals are not isolated cases, rather, they represent the culmination of ongoing neoconservative threats from Brazil's far right within the national legislative sphere. In mid-2024, the National Congress reached the milestone of more than 100 legislative initiatives – including bills, constitutional amendment proposals and legislative decrees – targeting abortion rights (CFEMEA, 2024). These proposals include attempts to intensify criminal penalties for abortion, further restrict legal abortion, establish barriers limiting legal abortions, spread disinformation regarding abortion (such as claims of severe physical and psychological harm to women requiring complex and risky procedures, etc.), and censor abortion-related information.

<sup>12</sup> The victim's word can be challenged once the parent has been identified, especially when the authorities doubt the veracity of the report of sexual violence – due either to the aggressor's statements, which may present a conflicting version, or to being unable to locate the aggressor, which can cast doubt on whether the rape really occurred.

<sup>13</sup> In the case of *Artavia Murillo vs. Costa Rica*, which addressed whether the disposal of embryos in in vitro fertilization violated the right to life protected from conception, the Inter-American Court of Human Rights (IACHR) determined the scope of the protection of the right to life before birth, in accordance with the American Convention on Human Rights. The ruling established that the protection of life begins with implantation, not fertilization. It was noted that, in the current scientific context, two different interpretations of the term "conception" are highlighted. One perspective understands it as the moment the fertilized egg is implanted in the uterus, enabling the zygote to connect with the maternal circulatory system, which allows it to access hormones and other elements necessary for the embryo's development. Scientific progress demonstrates that a period can elapse between the union of the egg and sperm and the implantation in the human uterus. The Court emphasized that the protection of life is not an absolute right, but a gradual and incremental one, according to the development of life and other involved rights. It also stated that, considering the American Convention, the human embryo does not have the legal status of a person, and its rights cannot outweigh other rights (IACHR, 2012).

Moreover, additional legislative proposals addressing the rights of pregnant individuals have encountered resistance in congressional debates, often dismissed due to perceived "ideological" content related to abortion. One example is PL 853/2019, which proposes a "National Week of Awareness of the Rights of Pregnant Women," a purely commemorative week, with no changes to legislation or creation of new rights (Brazil, 2019). It became the "most discussed and controversial bill in the Social Security and Family Committee between April and July 2021, generating intense discussions, several amendments, moments of voting, revoked votes, and subsequently annulled revocation" (Potechi, 2023, p. 5). Throughout its consideration, phrases such as reproductive planning, humanized care for the pregnant person, the sexual division of domestic labor, and the role of the pregnant person's partner (who is not necessarily the father of the fetus) were interpreted as threats to the conservative values upheld by certain congressional members (Potechi, 2023).

Regarding PL 1904, the emblematic case analyzed in this article, the authors propose adding the following provision to Article 124 of the Penal Code ("to provoke abortion in oneself or consent to another provoking it"), Article 125 ("to provoke abortion without the consent of the pregnant person"), and Article 126 ("to provoke abortion with the consent of the pregnant person"): "When fetal viability is presumed in pregnancies over 22 weeks, the penalties will be applied as per the crime of simple homicide under Article 121 of this Code".

The bill introduces a medical concept into criminal law: "fetal viability." In medical terms, fetal viability refers to the fetus's capacity to survive outside the uterus after birth, whether naturally or through induced labor. Notably, this viability is not absolute; it depends not only on the maturation of the fetus's organs but also on the available resources for premature birth care. Moreover, the Health Care Protocol issued by the Health Secretariat of the Federal District in Brazil (2018), addressing the limits of viability in neonatology, emphasizes that gestational age may vary depending on the diagnostic methods employed. Consequently, the legislative decision to set viability at 22 weeks is medically imprecise.

Furthermore, regarding gestational age, the available literature in the Virtual Health Library (Ministry of Health, 2025) does not provide scientific evidence supporting the assertion that fetuses generally have the capacity to survive outside the uterus starting from the 22nd week of gestation. Fetuses, like full-term newborns, exhibit diverse genetic and physical characteristics, and the effectiveness of neonatal intensive care for preterm infants can vary considerably. Moreover, such specialized service, which is scarce and costly in Brazil, does not guarantee the survival of the premature infant on its own.

In clear disregard of this scientific evidence and the reality of Brazil's healthcare system, PL 1904 aligns itself with the science-denialist stance promoted by the far right. The bill provides no scientifically ground justification for presuming fetal viability at 22 weeks of gestation, nor does it acknowledge harsh realities faced by most Brazilian women and girls, particularly their challenges in accessing adequate prenatal care and neonatal services (Rodrigues et al, 2024). The bill's approach neglects critical factors that determine survival outside the uterus, particularly the experiences of uterus carrying individuals' social-economic differences. In many instances, premature infants require ongoing access to expensive treatments, specialized nutrition and multidisciplinary healthcare services over several years. Without these essential supports, they often face physical, motor, behavioral and emotional impairments beyond early childhood (Silva, Veríssimo & Mazza, 2015; Soares, Conceição & Monteiro, 2019; Almeida et al., 2021).

By imposing severe criminal sanctions based on arbitrary and scientifically questionable criteria, the bill fails to effectively protect life, a concept that should extend beyond mere birth and encompass the comprehensive care required for the survival and healthy development of both the "child" and the pregnant individual. This narrow and punitive perspective diminishes the experiences and autonomy of women and all people capable of pregnancy, dismissing their right to reproductive planning and disrespecting their decisions. Consequently, the punitive framework established by PL 1904 is incompatible with a democratic rule of law committed to human rights. Rather than protecting life, it exacerbates inequalities, reinforces stigmas and violates fundamental guarantees, particularly affecting those already in highly vulnerable social situations.

The arbitrariness of the bill becomes even clearer upon examining the outlined penalties. For self-induced abortion or abortion performed by a third party with the pregnant individual's consent, the proposed penalty is detention for one to three years if the fetus is under 22 weeks of gestation, but this drastically increases for six to 20 years of imprisonment if fetal age surpasses that

threshold. In cases where abortion is induced by a third party with the pregnant individual's consent, the penalty applied to the third party is detention for one to four years if the fetus is under 22 weeks of gestation, but similarly rises from six to 20 years of imprisonment if the fetus is older. Additionally, for abortions induced by a third party without the pregnant individual's consent, the penalty ranges from three to 10 years if the fetus is under 22 weeks of gestation, increasing to six to 20 years of imprisonment if the fetus exceeds that gestational age. This disproportionate scaling of penalties further highlights the arbitrary and punitive nature of the proposed legislation.

It is noteworthy that the penalties remain the same whenever fetal viability is presumed, regardless of whether the abortion was self-induced, performed by a third party with the pregnant individual's consent, or carried out by a third party without their consent. Consequently, this highlights that the life of the pregnant individual (whether a child, adolescent, or adult), the sexual violence that potentially caused the pregnancy, and their own will are irrelevant in comparison to an abstract notion of life and questionable viability. This reveals that the bill unjustly treats vastly different situations as equivalent, disregarding the possible violence suffered and the context of pregnancy – which underscores the dehumanization of women enacted in the name of protecting a fetus whose viability cannot be scientifically guaranteed.

In this legislative framework, the fact that a pregnancy resulted from rape is of little or no importance – the pregnant individual must still face sentencing for terminating the pregnancy (Brazil, 2024, p. 1). Such judicial discretion introduces considerable uncertainty because, even if the pregnant individual is acknowledged as victim of rape, they must first be convicted of the abortion before potentially receiving clemency from the State through a subjective decision. Moreover, linking abortion to the possibility of penalty and severe negative outcomes reinforces existing stigma by inherently associating it with *serious consequences*.

The arbitrariness and severity of the bill become particularly evident when considering its intention to alter the longstanding legal provision – established for over 80 years – excluding abortion as a crime in cases of pregnancies resulting from rape. The bill proposes that, if such a pregnancy reaches presumed fetal viability at 22 weeks or more, abortion would be reclassified as a criminal offense, subject to the same penalty equivalent to simple homicide, ranging from six to 20 years of imprisonment. This sentencing is disproportionately severe, especially when compared with the existing penalties for the crime of rape itself: six to ten years when perpetrated against adult women, eight to twelve years for girls between 14 and 18 years old, and eight to fifteen years when the victims are under 14 years old.<sup>14</sup> Therefore, the maximum penalty for abortion could surpass that for rape by five to ten years. This disproportion exposes the undervaluation of women's bodies, treating them as objects to be used and discarded. The established woman's life becomes condemned, subjected to harsh condemnations and judgments, even within small-town popular juries (Castilho, Wardi & Almeida, 2024; Wardi, 2023).

According to the rationale presented by the parliamentarians who authored PL 1904, when the right to life of an already born person conflicts with the dignity of an unborn person, "the dignity of the life of the second person will take precedence over the right to the life of the first person" (Brazil, 2024a, p.15). These parliamentarians argue that any alternative viewpoint undermines the fundamental principles of the rule of law, freedom, and modern civilization itself. Reflecting strong influences from the United States of America, the bill's authors invoke the United States Declaration of Independence of 1776, from which they claim the pillars of democracy and modern rule of law are founded. They emphasize specifically the following assertion: "all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness" (Brazil, 2024a, p. 13).

The parliamentarians argue that if the dignity of a person is defined by constitutions, legislations, or judicial interpretations, the right to life will gradually become "incremental" or "gradual." From this perspective, a person's entitlement to the right to life might increase or decrease based on their relative level of dignity compared to others who have not equal dignity. In such a legally structured framework, the right to life could potentially be acquired and be treated as a matter of investment, or conversely, it could be partially or entirely lost over time. Given this context, it is crucial to emphasize that the concept of dignity has long been the subject of intense political

<sup>14</sup>The disparity between the penalties for the crime of abortion with presumption of fetal viability (six to 20 years) and for the crime of rape (which varies from six to 15 years, depending on the age of the victim) is significant in both duration and severity. While rape is already a serious crime, carrying significant penalties, the bill punishes abortion after 22 weeks of gestation – regardless of the circumstances of conception – with penalties equal to or even greater than those applied to the aggressor. This disparity is troubling because, in practice, it can lead to a more severe punishment for the victim of sexual violence who chooses to terminate the resulting pregnancy, compared to the penalty applied to its perpetrator. This inverts the logic of justice, prioritizing the protection of a fetus.

disputes and, in recent years, has been appropriated and reinterpreted by the extreme right to justify exclusionary and restrictive agendas. These agendas include the defense of conservative world views that deny fundamental rights, aggravating the vulnerability of already marginalized groups, such as black and poor women – the groups most impacted by the lack of reproductive health policies in Brazil.

We argue that, on one hand, this line of reasoning is contradictory, because stating that “the dignity of the life of the second person will take precedence over the right to life of the first person” arbitrarily establishes that the person who is pregnant has less right to life and less dignity. On the other hand, the parliamentarians are silent about the right to freedom, a right that includes the exercise of sexual and reproductive rights, and they reveal their misogyny, antifeminism and desire for revenge against the militancy of the “women’s movement and other feminist groups” in their justification for the bill, in order to comply with legal norms permitting abortion in the event of rape. It expressly states:

In fact, abortion services in cases of rape were initiated in Brazil in 1989, not by the initiative of jurists interested in correcting a gap already pointed out and discussed by doctrine, but by the initiative of abortion activists, who used the idea that abortion in these cases would be a right and that the public authority had omitted, for fifty years, in providing the corresponding service (Brazil, 2024a, p.4).

The next step in the strategies of the neoconservative and antifeminist movement may involve the overturning of the legal precedents addressing that currently permit abortion when the pregnant individual’s life is at risk, as well as in cases involving fetal anencephaly – exceptions long recognized by Brazil’s judiciary.

Drawing on the same 1776 Declaration cited earlier, we emphasize the principles of liberty and the pursuit of happiness. We also align ourselves with the interpretation provided by the Inter-American Court of Human Rights, according to which the right to abortion is compatible with Article 4.1 of the American Convention on Human Rights, which addresses the right to life as generally protected from conception (“Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life”). According to the Court’s interpretation, the primary holder of full rights under the Convention is the one who requires care, and it is unworkable to legitimately advocate for the protection of the embryo meanwhile respecting the pregnant person’s autonomy. For the Court, the protection afforded to human life is inherently gradual and incremental, depending on the stage of development. Thus, the rights of each pregnant individual cannot be disproportionately restricted by the protection given to the embryo (IACHR, 2012).

The tension between advancements in international legal law and restrictive national legislative efforts reveals a strategic dispute in which Brazil’s legislature has become a key space for promoting regressive reproductive health agendas. From the examples analyzed in this article, it becomes evident that the seemingly fragmented nature or repetitive variations of conservative legislative proposals form part of a deliberate, long-term, structured strategy aimed at the absolute prohibition of abortion.

## 2. The Executive Power Arena: Public Health Management, Medical Power, and Police

Having examined the legislative arena, we now turn our focus to the offensives and resistances within Brazil’s executive branch. In this section, we will address the actions and practices adopted by the Ministry of Health (MS), the Federal (CFM) and State (CRMs) Medical Councils, the now-extinct Ministry of Women, Family and Human Rights (MMFDH), and State Public Security Departments (SSPs), particularly during Jair Bolsonaro’s administration (2019–2022).

Between 2016 and 2022, the Ministry of Health (MS), which is responsible for establishing guidelines and protocols for public and private health services, underwent a quiet but steady ideological realignment through strategic staffing choices. Among various measures to pressure employees and dismantle policies, the Technical Area for Women’s Health was eliminated. Central to this technical area was the Comprehensive Women’s Health Program (PAISM), established in 1983 responding to demands from women’s and feminist movements (Biroli, Tatagiba & Quintela, 2024).

On August 27, 2020, the MS issued Ordinance 2.282, establishing procedures for justifying

and authorizing pregnancy termination in legally permitted cases within Brazil's Unified Health System (SUS). This new ordinance revoked the earlier Ordinance 1.508, dated September 1, 2005. The 2020 ordinance made it mandatory for the doctor, other health professionals, or those responsible for the healthcare establishment to notify the police when there were indications or confirmation of a rape crime, an obligation absent in the revoked ordinance. Additionally, healthcare professionals were compelled to preserve any potential material evidence of rape crimes, such as fragments of embryos or fetuses, and to immediately transfer them over to law enforcement for genetic testing aimed at identifying the perpetrators, regardless of the consent of the woman, girl, or pregnant individual. On January 13, 2023, under President Lula's administration, Ordinance MS/GM 13 reinstated the original wording of Articles 694 to 700 of Consolidation Ordinance GM/MS 5, dated September 28, 2017, which had incorporated Ordinance 1.508/2005.

In August 2021, the Health Minister revoked Resolution 617/2019 of the National Health Council<sup>15</sup>, which affirmed that it was the duty of the MS to guarantee legal abortion, ensuring comprehensive and humane assistance to the woman. Days later, the decision was reversed. It should also be noted that, in March 2022, the MS published a booklet for pregnant individuals that ignored the legislation, stating that "all abortion is a crime" and that the cases of abortion permitted by law should be subject to "police investigation"<sup>16</sup>. The feminist movements' outrage led to a revision of the booklet months later.

For their part, the Medical Councils (CFM and CRMs), whose constitutional and legal role is only to supervise the professional activity,<sup>17</sup> have exceeded this role in favor of the science-denialist and antifeminist agenda. The Federal Council of Medicine (CFM), for example, published Resolution 2.378/2024, which prohibited the technique of fetal asystole in pregnancies above 22 weeks resulting from rape. This procedure is used in cases of legal abortion above the gestational period mentioned and is recommended by the World Health Organization (WHO). The Supreme Court Judge Alexandre de Moraes responded to a request by the Socialism and Freedom Party (PSOL) in ADPF 1141 (2024), suspending the resolution and accepting the arguments that the resolution represented an abuse of regulatory power and discrimination against victims, as well as putting at risk the lives of women, girls and pregnant individuals (CFEMEA, 2024). As previously mentioned, the press reported that, in response to the suspension, the bill 1904 was introduced.

The resolution issued by the CFM's influenced conservative stances at the regional level. For instance, it was reported by the press that São Paulo's Regional Medical Council (CREMESP) acted against two female and one male physicians who performed legal abortions at the Vila Nova Cachoeirinha Maternity Hospital. This facility is recognized as a reference unit within the city of São Paulo and the only one in the region performing abortions at various gestational stages (Figueiredo, 2024). In response, the Federal Public Prosecutor's Office opened an investigation to examine CREMESP's conduct. Additionally, a criminal investigation is also underway to assess whether there was illegal access to patient records of those who underwent abortion at the facility. The services at Vila Nova Cachoeirinha Hospital were providing critical care abortions to sexual assault victims with pregnancies exceeding 22 weeks.

In contemporary Brazil, even in the current administration of President Lula, when it comes to criminalized abortion, police functions as executive bodies playing a central role not only in identifying and investigating criminalized abortion practices but also in constructing the stigmatized social imagery of the procedure and those who seek it. Wardi (2023) conducted an exploratory analysis of the microdata drawn from the quantitative databases of 18 State Public Security Departments (SSPs) in Brazil, categorizing representations assigned to individuals involved in abortion cases as documented by the civil police. Expanding upon this, Castilho, Wardi and Almeida (2024) analyzed judicial decisions issued by eight state courts of justice between 2012 and 2021, revealing how the categories of "victim," "perpetrator" and "fetus" were decided. The

<sup>15</sup> A collegiate, deliberative, and permanent instance of the SUS, part of the organizational structure of the Ministry of Health (MS). Its mission is to supervise, monitor, and oversee public health policies in their various areas, bringing the population's demands to the government. This is why it is referred to as the social control in health. The current duties of the CNS are regulated by Law 8.142/1990 (<https://www.gov.br/conselho-nacional-de-saude/pt-br/aceso-a-informacao/sobre-o-conselho>). Accessed on January 25, 2025).

<sup>16</sup> The booklet *Atenção Técnica para Prevenção, Avaliação e Conduta nos Casos de Abortamento* (Technical Guidance for Prevention, Evaluation, and Conduct in Abortion Cases), from the Ministry of Health, Brasília, 2022, <https://g1.globo.com/saude/noticia/2022/06/08/cartilha-editada-pelo-ministerio-da-saude-diz-que-todo-aborto-e-crime-e-defende-investigacao-policia.ghtml>. Accessed on February 3, 2025.

<sup>17</sup> The Federal Council and the Regional Medical Councils are the supervisory bodies for professional ethics throughout the Republic, and at the same time, they serve as judges and disciplinarians of the medical profession. They are responsible for ensuring and working through all available means to promote the ethical practice of medicine and to maintain the prestige and good reputation of the profession and those who legally practice it.

authors encountered the registration of the fetus as a victim and its recognition as a corpse, both questionable in criminal doctrine. The practice had become institutionalized and operationalized to reinforce the thesis as the fetus as an independent person whose rights supersede those of women, girls and pregnant individuals. Institutional practices in public security and the judicial bodies thus contribute to the establishment of the fetus as a subject with distinct rights, ultimately undermining the rights of women, girls and pregnant individuals. Such approaches reinforce punitive and ideological frameworks incompatible with fundamental principles of criminal law.

In the published research findings, the narratives surrounding self-induced and consensual abortions performed clandestinely were also revealed to be legally abusive, systematically framing women perpetrators of homicide. Judicial decisions frequently showed that criminal investigations were initiated because healthcare providers reported patients to the police and shared medical records without the prior, free and informed consent of the pregnant individual or their legal guardian.

This practice was enabled and intensified by Federal Law 13.931 (2019), which mandates the nationwide compulsory reporting to the police, within 24 hours of cases involving suspected or confirmed violence against women attended by public and private healthcare services. Although this law pertains to women in situations of violence, it ends up serving as justification for favoring communication between the health sector and the police to investigate anyone who arrives at hospital care with traces of abortion, including spontaneous miscarriages. Notably, the lack of standardized procedures or common guidelines for reporting these cases within the SSPs has generated significant arbitrariness in how the information gathered by healthcare professionals and security personnel. Their judgment frequently reflects patriarchal biases and harsh moral condemnation directed at pregnant individuals, irrespective of the violence they may have suffered.

Ordinance MS 2.282/2020, issued by the MS – a federal executive body – established the procedure of justification and authorization for the termination of pregnancies in cases provided for by the law within the scope of the Unified Health System (SUS). The ordinance also reinforced the practice of notification by doctors and other healthcare professionals of alleged abortion crimes, as it conditioned the interruption of pregnancy resulting from rape to collecting the victim's testimony and other evidence of the rape at the hospital itself.

Castilho, Wardi and Almeida (2024) demonstrate that doctors, nurses and attendants in clinics and hospitals report suspected induced abortion to the Military Police. The extremely vulnerable pregnant individuals seeking medical assistance, desperate due to pain and hemorrhaging, often do not deny having taken abortifacient medication. Their medical records, the hospital forms and the testimonies from healthcare professionals corroborate the individual's confession, which have been accepted as sufficient evidence of the materiality of a crime, being used to denounce and indict pregnant individuals. In a case analyzed by Castilho, Wardi and Almeida (2024), it was mentioned that there were "minimal moral elements". However, since it is a material crime, forensic examinations are essential to establish the causal link.

These practices, highlighted in various studies, weaken Brazil before the Inter-American Court of Human Rights. In the case *Manuela y Otros vs. El Salvador* (2021, p.11-12), a country that adopted an absolute abortion ban, Judge Ricardo C. Pérez Manrique's opinion emphasized conditions very similar to those occurring in Brazil.

### 3. The Judiciary Arena: Estuary of All Political Disputes

Disputes within the public administration are brought before the judiciary in different instances<sup>18</sup>. In addition to the delays in rulings, there is also jurisprudential divergence. Let us consider some issues.

<sup>18</sup> The Brazilian Federal Constitution, in Article 92, establishes the bodies of the Judiciary: (i) the Federal Supreme Court (STF), the highest body of the Judiciary, responsible for safeguarding the Constitution; (ii) the National Justice Council (CNJ), a public institution aimed at improving the functioning of the judicial system; (iii) the Superior Court of Justice (STJ), which standardizes the interpretation of federal law in the country; (iv) the Federal Court, which processes and judges cases in which the Union, autonomous entities, or federal public companies are involved as plaintiffs, as well as political crimes and criminal infractions committed against the Union, cases related to human rights, and social security; (v) the Labor Court, which judges actions between workers and employers and other labor-related matters; (vi) the Electoral Court, whose responsibility is to organize the electoral process, voter registration, voting, vote counting, and the certification of elected officials; (vii) the Military Court, which processes and judges military crimes as defined by law; (viii) the State Court, which handles cases not under the jurisdiction of specialized courts (Federal, Labor, Electoral, and Military Courts). Among these are most common crimes, family law actions, tax executions by states and municipalities, civil actions, etc.

The proposal for the decriminalization of abortion has been under the scrutiny of the STF since 2017, through ADPF 442, without a final ruling. This action seeks the declaration of partial non-reception of Articles 124 and 126 of the Penal Code, aiming to exclude from its scope the induced and voluntary interruption of pregnancy performed within the first 12 weeks. It invokes the violation of women's fundamental rights to life; liberty; physical and psychological integrity; gender equality; the prohibition of torture, inhuman or degrading treatment; health and family planning in order to ensure women's constitutional right to interrupt pregnancy according to their autonomy, without the need for any specific permission from the State, as well as ensuring healthcare professionals' right to perform the procedure.

The issue of restricting criminal exemption exclusively to medical professionals was highlighted in ADPF 1207, submitted to the STF while this article was being finalized. This legal action calls for a constitutional interpretation of Article 128 of the Penal Code to recognize, in the situations authorized by items I and II of said article, the subjective right of girls, women and all individuals capable of pregnancy and childbirth. Additionally, the action advocates extending the right to perform legally permitted pregnancy terminations to other equally qualified healthcare professionals, such as nurses, whose roles should be clearly defined and regulated by public health policies in line with the WHO's recommended best health practices.

It is frequently present in abortion criminal investigations the issue of "medical confidentiality". A significant segment of Brazil's judiciary accepts the breach of medical confidentiality, arguing that no confidentiality is absolute and must yield to the greater interest of the right to life. Thus, professional secrecy does not prevail over the duty to report the commission of a crime. However, this issue has not been settled in national case law. Recently, the STJ (Superior Court of Justice), which has the competence to make final decisions on the interpretation of federal law, ruled that such evidence is illicit in abortion cases (Almeida, 2023). Conversely, STF, which is responsible for interpreting laws considering the Federal Constitution, issued a decision in the opposite direction (Migalhas, 2023).

These divergent decisions create legal uncertainty among healthcare professionals, who, fearing administrative and criminal liability opt to expose patients, report any abortions, whether spontaneous or induced, to law enforcement. Pregnant individuals and the legal guardians of individuals incapable of representing themselves may hesitate to seek assistance for contraception or incomplete abortions, subjecting themselves to clandestine and high-risk procedures. They also fear that, in cases of physical or sexual violence, the perpetrator may be revealed - something they often wish to conceal out of fear of reprisals.

Another issue currently before the Judiciary is the competence of the CFM (Federal Council of Medicine) to regulate the medical act of fetal asystole<sup>19</sup> for pregnancy termination in cases of abortion due to rape. On May 17, 2024, Supreme Court Judge Moraes granted a precautionary measure in ADPF 1141 (2024) to suspend the effects of Resolution CFM 2.378/2024 until the final judgment, due to "indications of abuse of regulatory power by the Federal Council of Medicine". CFM is a corporative body, its competence is limited to the administrative process of registration, inspection and regulation of the profession, and cannot exceed this scope. Additionally, the qualification of fetal asystole as an act of torture and infliction of pain on the fetus or as a procedure more suitable and safer for the pregnant individual, from an ethical approach, could support the Resolution. It is important to remember that this specific issue is linked to the subject of ADPF 989 (2022), for Supreme Court Judge Luiz Edson Fachin is the rapporteur, addressing the unconstitutional state of affairs in legal abortion due to various obstacles, particularly for girls who are victims of rape. Among other requests, it calls for the suspension of a document published by the Ministry of Health titled "Technical Attention for Prevention, Evaluation, and Management of Abortions," dated June 15, 2022, which advises healthcare professionals not to perform abortions if the gestational age is beyond 22 weeks.

Finally, the issue of Resolution 258 from the National Council for the Rights of Children and Adolescents (CONANDA) was recently brought to the Judiciary. This resolution establishes guidelines for the care of children and adolescents who are victims of sexual violence, including regulations on access to abortion procedures in cases already guaranteed by law. The Resolution states, for example, that "every child and adolescent have the right to access information about

<sup>19</sup> In general terms, fetal asystole involves the procedure of injecting substances into the fetus to stop its heartbeat and, consequently, its development.

their own body, allowing the identification and reporting of sexual violence", and establishes protocols ensuring quick and safe access to services, with mandatory professional training to handle sexual violence cases in a humane and respectful manner.

Resolution 258/2024 sought to respond to a sequence of events that began in 2020 characterized by institutional violence on the part of the health and justice systems to the detriment of raped girls. The first case was that of a 10-year-old girl in the state of Espírito Santo, who, during the pandemic, had her abortion request denied by the hospital and had to travel to the state of Pernambuco in search of her right. The case gained national attention due to hate attacks -including associating the girl with the image of a murderer- leaking of sensitive data (Sousa, 2020), harassment by healthcare professionals, and public disapproval from members of the former Ministry of Family, Women, and Human Rights, notably from the former minister and current senator Damares Alves (Universa UOL, 2020). A few months later, an 11-year-old girl, also a victim of sexual violence, sought a legal abortion in Santa Catarina and faced denial in healthcare services and delays in judicial processes. Subsequently, a 12-year-old girl from the Brazilian state of Piauí, in her second pregnancy, encountered institutional barriers to accessing legal abortion, failing to obtain it (Guimarães, 2023). More recently, in the context of the PL 1904/24 discussion, the case of a 13-year-old girl from the Brazilian state of Goiás was revealed, who was prevented from accessing legal abortion in court by an arrangement involving her father, members of the Catholic Church and actors in the justice and security agencies (Dias, Felizardo, Motoryn, 2024). In all four cases, obstacles and pressures were created to prevent the pregnancy from being terminated, even though, at their age, the pregnancy posed a risk to the girls' lives.

The lack of healthcare support for Brazilian children who are victims of sexual violence is becoming increasingly alarming and even taboo within the government. Although there is a national campaign for tackling sexual violence against children and adolescents called "Faça Bonito" ("Do it Beautiful") strengthening policies to guarantee and access pregnancy termination for children and adolescents does not seem to be part of the current government's actions in this area.

By the end of 2024, the Civil House of the Presidency mobilized to block the voting of the resolution proposed by CONANDA, in dialogue with entities of the #CriançaNãoÉMãe campaign, which strengthens the rights system for children and adolescents who are victims of sexual violence, including access to legal abortion within healthcare and guardianship councils (Folha de São Paulo, 2025). This generated discomfort among councilors, as only the government presented votes opposing the vote and approval of the resolution, which led to comparisons with Jair Bolsonaro's administration, which did not respect the work of the councils. Resolution 258 was approved on December 23 in a CONANDA assembly and quickly annulled by the Federal Court of the Federal District at the request of Senator Damares Alves. After the intervention of organizations and movements in the #CriançaNãoÉMãe campaign, together with the Popular Organizations Legal Advisory Office (GAJOP), which is part of CONANDA, an appeal was filed, granted by the Federal Regional Court, enabling the resolution's publication in the Official Gazette on January 8, 2025. However, the final judgment of the case has not yet occurred.

Before the resolution's vote, one of the reactions within the Chamber of Deputies was the presentation of PL 4296/2024, which seeks to "prohibit the (CONANDA) from discussing and addressing the issue of abortion in children and adolescents", making it exclusive to the Congress (Brazil, 2024b). The attempt to limit the Council's actions is not new. In 2021, as a reflection of Bolsonaro's treatment, PL 168 was presented with the aim of redefining the competence of CONANDA, making it "primarily consultative" (Brazil, 2021). Interestingly, the cases of the girls from Espírito Santo and Santa Catarina were used as factual grounds for proposing PL 1904, which seeks to define abortion of fetuses resulting from rape, over 22 weeks of gestation, as homicide.

With the change in the federal government in 2023, the growth of neoconservative politics in sexual and reproductive rights has seen a retreat in the Federal Executive arena. However, even with a progressive stance and commitment to women's rights, there is a noticeable loss of political strength in defending these rights, which is associated with a "political risk" for the current administration.

Moreover, the necessary new regulations from the MS on legally permitted abortion are being delayed due to ongoing political and judicial disputes. The conservative bench in Congress, which holds a large majority, aggressively pursues strategies to legislate on the suppression of reproductive rights of women, girls and individuals capable of pregnancy and childbirth. According to a study conducted by CFEMEA (2023b), the Congress elected in 2022 represents the most

regressive legislature yet regarding reproductive rights, violence against women, family policies, care practices, religion influence and opposition to so-called "gender ideology". In such a political climate, legislators can readily challenge government regulations through the introduction of new bills designed to limit administrative powers or legislative decrees aimed at suspending technical guidelines and resolutions. Additionally, this favorable environment increases the likelihood of passing legislative measures that undermine previously secured sexual and reproductive rights, restricting women, girl and individuals capable of pregnancy and childbirth to fully exercise their citizenship.

## Final Considerations

Immediately following the expedited approval of the Bill 1904 in the Chamber of Deputies, the perverse bill faced strong opposition from Brazilian society, which quickly mobilized against this direct assault on the rights of girls, women and all people capable of pregnancy and childbirth. Resistance emerged not only from feminist movements but also from diverse popular groups committed to addressing multiple intersecting inequalities – including race, gender, age, and regional disparities<sup>20</sup>. Notably, critical Christian movements to religious fundamentalism and its patriarchal attempts to strip away hard-won gender equity rights joined together in supradenominational alliances and took to public spaces to express themselves, from church pulpits to social media posts, public letters and protests.

The introduction of bill 1904 illustrates how the extent to which public pressure driven by feminist movements has effectively exposed conservative and fundamentalist threats to abortion rights – threats that have increasingly been normalized within Brazil's public political discourse. Beyond the National Congress, neoconservative narratives have permeated the leadership of key legal and healthcare institutions throughout the country. These narratives prioritize the abstract concept of fetal over the lives of women, girls and those who can gestate. In this sense, those who have sought the procedure are stigmatized as murderers due to the bill's (and similar legislative proposals) explicit equating of abortion with intentional homicide – a portrayal further reinforced by the documents, bills, institutional expedients and the opposing reaction of social movements examined in this article.

In this context, the paradigm of reproductive injustice is evident: basic sexual and reproductive rights, such as legal abortion, are not guaranteed, and individuals who wish to gestate are not assured health conditions for childbirth, education, health, sanitation, and security. The far-right's concern, which has made anti-abortion a central agenda, is the defense of abstract life rooted in anti-science, antifeminism, misogyny, racism and the deepening of other social inequalities within Brazil. Neoconservative attacks on sexual and reproductive rights go beyond a mere moral agenda of religious groups. They contribute significantly to destabilizing and limiting democracies and social justice, putting at risk the guarantees of dignified life for minorities, individual rights, the principle of secularism, and, above all, equality as a civilizational value.

<sup>20</sup> Councils from different sectors – psychology, child and adolescent rights, social work – as well as samba schools, actors and actresses, singers, the civil police, fan clubs of divas and K-pop, among others.

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