WOMEN OF THE WORLD: LAWS AND POLICIES AFFECTING THEIR REPRODUCTIVE LIVES LATIN AMERICA AND THE CARIBBEAN, PROGRESS REPORT 2000

Published by:
The Center for Reproductive Law and Policy
120 Wall Street
New York, NY 10005
USA

First edition, January 2001

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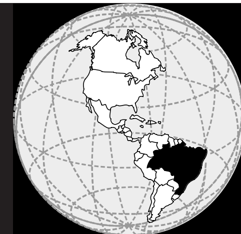
ISBN 1-890671-06-6
ISBN 1-890671-00-2

Brazil



Statistics

GENERAL

Population

■ In 1999, the population of Brazil was estimated at 168 million, with an annual growth rate of 1.4%.[1]

■ In 2000, 81% of the population lived in urban areas and 19% lived in rural areas.[2]

■ Twenty-nine percent of the population is below the age of 15,[3] and 7.6% is over the age of 60.[4]

Economy

■ In 1998, the gross national product per capita was approximately U.S.$6,460.[5]

■ From 1990 to 1998, the gross domestic product grew by approximately 3.2% per year.[6]

■ From 1990 to 1998, public spending on health represented 3.4% of the national budget.[7]

Employment

■ In 1998, 76 million people were economically active, 35.4% of whom were women.[8]

■ In 1998, the unemployment rate was 7.6%, compared to 4.6% in 1995.[9]

Education

■ In 1997, the gross enrollment rate was 97% for primary school and 66% for secondary school.[10]

■ In 1997, the illiteracy rate was 16.1%.[11]

WOMEN'S STATUS

■ In 1998, women accounted for 50.6% of the population.[12]

■ In 1999, life expectancy was approximately 71.7 years for women and 63.7 years for men.[13]

■ In 2000, the illiteracy rate for women was 14.6%, compared to 14.9% for men.[14]

ADOLESCENTS

■ In 1998, the adolescent fertility rate was 72 births for every 1,000 young women between the ages of 15 and 19.[15]

MATERNAL HEALTH

■ In 1999, the overall fertility rate was 2.2 children per woman.[16]

■ From 1990 to 1998, the maternal mortality rate was 160 per 100,000 live births.[17]

■ In 1998, the infant mortality rate was 33 per 1,000 live births.[18]

HIV/AIDS AND OTHER STIS

■ As of late 1999, an estimated 540,000 people were living with HIV/AIDS in Brazil. Of this number, 530,000 were between the ages of 15 and 49 and 9,900 were younger than 14. Women accounted for 130,000 of the adult cases.[19]

ENDNOTES

1 *See* World Health Organization (WHO), The World Health Report 2000 156 (2000).
2 *See* United Nations Statistics Division (UNSTATS), *Indicators 2000*, at *Human Settlements, available at* http://www.un.org/Depts/unsd/social.htm (last visited Sept. 27, 2000).
3 *See id.* at *Youth and Elderly Populations.*
4 *See* WHO, *supra* note 1, at 156.
5 *See* The World Bank, World Development Indicators 2000 10 (2000).
6 *See id.* at 182.
7 *See id.* at 90.
8 *See id.* at 46.
9 *See* Inter-American Development Bank (IADB), *Basic Socio-economic Data for Brazil, available at* http://www.iadb.org/int/sta/Spanish/brptnet/english/brabrp.htm (last visited Sept. 27, 2000).
10 *See* World Bank, *supra* note 5, at 74.
11 *See* IADB, *supra* note 9.
12 *See* World Bank, *supra* note 5, at 18.
13 *See* WHO, *supra* note 1, at 157.
14 *See* UNSTATS, *supra* note 2, at *Literacy*.
15 *See* World Bank, *supra* note 5, at 98.
16 *See* WHO, *supra* note 1, at 156.
17 *See* World Bank, *supra* note 5, at 98.
18 *See id.* at 14.
19 *See* UNAIDS & World Health Organization (WHO), Report on the Global HIV/AIDS Epidemic 2000 5 (2000), *available at* http://www.unaids.org/epidemic_update/report/table_E.htm.

I. The Legal and Political Framework

The Brazilian State has undergone no structural changes at the national or territorial level. In 1999, Fernando Henrique Cardoso began his second four-year term upon being elected president by universal suffrage.[1] Many of the laws and policies described in the previous report are therefore still in effect. For the first time, a woman is the head of the Federal Supreme Court.[2]

II. Examining Health and Reproductive Rights

A. HEALTH LAWS AND POLICIES

The Ministry of Health continues to govern health policy. It also regulates the qualification process of municipalities, states and the federal district in terms of content, instruments and funds to implement national health programs in line with the new management conditions set out in the Basic Operative Regulation, which established the Single Health System.[3]

With regard to service infrastructure, according to the Brazilian Federation of Hospitals statistics, there are 6,387 hospitals throughout Brazil.[4] In terms of human resources, the Federal Council of Medicine estimates the average ratio at one physician for every 673 inhabitants.[5]

Insurance market

A new insurance law passed in June 1998 sets out the types of health insurance plans and private health packages available, and stipulates the services they must include.[6] Under this new law, the Hospital Plan without Obstetric Care does not cover outpatient examinations, house calls or prenatal care, whereas the Hospital Plan with Obstetric Care covers childbirth as well as newborn care for the first month of life.[7] The law also establishes what can be excluded or included in other plans, such as artificial insemination or maternity leave.[8]

According to the National Council of Private Insurers, the Private Insurance Superintendence (PIS) is the body in charge of supervising and controlling private health care services. The PIS audits the activities of private health insurance providers and oversees compliance with the regulations on private health plans.[9] It also coordinates with the Ministry of Health to determine respective auditing powers with regard to health plan and health insurance providers.[10]

B. POPULATION, REPRODUCTIVE HEALTH, AND FAMILY PLANNING

Since 1998, maternity departments have been implementing new measures set out by a Ministry of Health manual. This manual, aimed at health care staff, outlines standards and procedures for prenatal assistance services, health education and counseling on HIV during pregnancy.[11] The manual also addresses the promotion of normal delivery, which is particularly relevant in São Paulo, where pregnant women often undergo cesarean sections.[12]

In 1998, the maternal mortality rate was 160 deaths for every 100,000 live births.[13] Data on rates of maternal mortality are difficult to gather, however, and the Ministry of Health estimates that only 70–75% of pregnancy-related deaths are actually recorded.[14] Approximately five thousand women die during pregnancy and from childbirth in Brazil every year.[15] The high rate of maternal mortality has led to the creation of a special Chamber of Deputies Commission to investigate the causes of premature death among women.[16]

With regard to artificial insemination, the patient's consent, though not necessarily informed consent, is required.[17]

C. CONTRACEPTION

Laws and policies on contraception have not changed during the current presidential term. The Family Planning Law mentioned in the previous report, which guarantees equal access to information on available methods and techniques to regulate fertility in men and women,[18] is still in effect. The law prohibits any form of incitement or harassment of persons or groups to undergo sterilization, including propaganda aimed exclusively at a certain racial or ethnic group.[19] If sterilization is performed in violation of this law, the person responsible for the surgery is liable for a sentence of two to eight years in prison, with the possibility of a higher sentence in addition to a fine.[20] In this respect, the draft bill to reform the Special Section of the Penal Code likewise would sentence anyone who performs sterilization in a way other than that established by the law to two to five years in prison.[21]

With respect to emergency contraception, its provision is specifically authorized for rape victims up to 72 hours following the assault.[22] While it is still necessary to disseminate information on emergency contraception, the Ministry of Health recently approved one of the drugs used for emergency contraception, though it is not yet available on the national market.[23]

D. ABORTION

Abortion is still illegal in Brazil, aside from the cases that constitute legal exceptions. The current Penal Code does not punish abortion practiced to save the mother's life, or if the

pregnancy is the result of rape, as long as the woman or her legal representative consent to the abortion.[24] Most hospitals require court authorization in such cases, which often results in delays that make it impossible to perform the abortion. Furthermore, such services are only provided in 11 hospitals located in seven cities: Belém, Brasilia, Campinas, Porto Alegre, Recife, Río de Janeiro, and São Paulo.[25] There is no information as yet on the proposed legislation, mentioned in the previous report, which would regulate abortion service delivery in Health System hospitals for cases in which the two exceptions apply.

The final version of the draft bill for the Penal Code reform that would significantly broaden the current grounds for legal authorization of abortion was presented in 1999.[26] The draft text states that induced abortion is not a crime when there is no other means of saving the mother's life, when the pregnancy is the result of a crime against sexual freedom, or when there is the demonstrated probability (backed by two physicians) that the child will be born with serious and irreversible abnormalities that render it non-viable.[27] With respect to voluntary abortion, the draft text maintains punishment for the pregnant woman, but suggests a shorter sentence.[28] This draft bill shows an effort to adjust to the provisions of the Program of Action of the 1994 International Conference on Population and Development and 1995 Platform for Action of the Fourth World Conference on Women, signed without reservations by the Brazilian government.[29]

In 1998, the Ministry of Health issued the Technical Regulation for the Prevention and Treatment of Injury Resulting from Sexual Violence Against Women and Adolescents. This document sets out the general standards for care, with specific guidelines on treating female victims of sexual violence. In addition to medical and nursing care, it describes the process for care of a pregnancy that is the result of rape, including the termination of such a pregnancy, and information on prophylaxis and pain control, and includes care charts.[30]

This technical regulation is not universally accepted, and a draft law has been presented to the Chamber of Deputies to have it revoked.[31] The feminist movement is organizing demonstrations before Parliament to keep the regulation in effect and to keep the draft law from being passed.[32] The vast majority of Brazilian society understands and supports women's right to opt for an abortion when the pregnancy is the result of rape or puts the woman's life in danger. Surveys carried out by various media sources show that between 72% and 83% of people would support abortion in cases of rape, and between 79% and 86% would support it when the woman's life or the fetus' survival is in danger.[33]

E. HIV/AIDS AND OTHER SEXUALLY TRANSMISSIBLE INFECTIONS

There have been no changes in the laws and policies on HIV/AIDS since the publication of the previous report. HIV/AIDS continues to affect the Brazilian population, with an estimated total of 540,000 people living with HIV/AIDS in the country as of late 1999, 130,000 of whom were women between the ages of 15 and 49.[34] In 1998, HIV prevalence was 0.4% for women receiving prenatal care in urban areas.[35]

The number of AIDS-related deaths in Brazil was estimated at 18,000 in 1998.[36] Female mortality due to AIDS has increased in recent years, making the disease one of the leading causes of death for women of childbearing age. In São Paulo, for example, the number of AIDS fatalities has doubled. Approximately 16 out of every 100,000 women between the ages of 15 and 49 died of AIDS in 1996.[37]

III. Women's Legal Status

There have been no major changes in Brazilian legislation with regard to women's legal status. In addition to the law on quotas mentioned in the previous report, Brazil's election law stipulates that no fewer than 30% and no more than 70% of each party's or coalition's vacant candidate positions be filled by women. The law on quotas applies equally to men.[38] Despite the principle of equality recognized in the Federal Constitution and mentioned in the previous report, there are still discriminatory regulations that prevent this principle from being upheld in all legislation in effect.

A. CIVIL RIGHTS WITHIN MARRIAGE

In addition to the discriminatory Civil Code clauses mentioned in the previous report, there is a clause that allows a man to disinherit a "dishonest" daughter living under the paternal roof. In this context, a dishonest daughter is one who freely enjoys her sexuality.[39] In 1999, a draft bill to reform the Civil Code and eliminate its current discriminatory clauses was submitted to Congress.[40]

Similarly, the above-mentioned draft bill to reform the Penal Code suggests that the offense of bigamy be stricken from penal legislation.[41] It also eliminates the offense of adultery, which was the argument behind jurisprudence concerning "legitimate defense of one's honor" in Brazilian courts for decades.[42] In addition, the draft bill increases the sentence for the abandonment of a pregnant woman, in which the perpetrator is liable to up to three years in prison and a fine, if the case does not constitute a more serious offense.[43]

B. ECONOMIC AND SOCIAL RIGHTS

The only significant changes in this area were in regard to labor legislation. The Ministry of Social Security enacted a government decree setting out legal provisions on maternity leave.[44] The decree established a limit on the amount of benefit payments, including maternity leave, available to insured persons, obligating employers to pay the balance. The Federal Supreme Court, however, later ruled that the limit set by the decree was unconstitutional, and ordered the state to pay the benefits in full, via Social Security, as stipulated in the Federal Constitution.[45]

Another draft bill, passed in 1999, regulates women's access to the labor market and punishes discriminatory behavior.[46] The text of the new law prohibits, among other provisions, the publication of job announcements that refer to the gender, age, race or civil status of the candidate, unless the nature of the activity "publicly and obviously" requires such a specification. The law also prohibits the employer from investigating female employees' private lives, and entitles pregnant workers to leave work for a minimum of six medical appointments during the pregnancy. Pregnant women may also be transferred to another position, without loss of wages, if their condition so requires.[47]

C. RIGHT TO PHYSICAL INTEGRITY

Sexual violence

The above-mentioned Technical Regulation for the Prevention and Treatment of Injury Resulting from Sexual Violence Against Women and Adolescents issued by the Ministry of Health puts special emphasis on sexual violence affecting girls, adolescents and young women. It states that health services must be accessible to the entire population, and that continuity of care must be provided with the proper "follow-up and assessment of the effects of violence on women's health."[48] The regulation also highlights the fact that sexual violence is usually perpetrated by relatives or people who are close or known to the victim, making this violence more difficult to report. It furthermore establishes the care parameters for institutions in terms of physical space, human resources (that care givers must be educated on the issue of sexual violence against women), and databanks.[49]

The draft bill for Penal Code reform, which only amends the Special Section, introduces significant changes with regard to sexual offenses. For example, the title "Crimes Against Social Conventions" is replaced by "Crimes Against Sexual Dignity," and the definition "honest woman" is removed throughout the Penal Code.[50] However, there is a discrepancy between the principles used in this draft bill and those underlying the previous reform of the Penal Code's General Section. The latter still features subsections granting annulment of the sentence for sexual offenses when the victim marries the perpetrator or a third party under certain circumstances.[51] This not only absolves guilt in sexual violence cases, it also prioritizes the "honor of the family" over that of the victims of sexual violence.

There is no specific law on marital rape in Brazil.[52] There is no specific law to punish sexual harassment either, although the above-mentioned draft bill does address the issue.[53]

Domestic violence

There is still no specific law to address violence within the family. Given the high rate of violence in Brazil, there has been considerable debate over violent offenses against women in the household and family environment, particularly with regard to minor bodily injury.[54] This type of injury is considered a minor offense, and is processed without a police investigation. The Law on State Judicial Organization stipulates that the judge may facilitate an agreement between the parties, which would lead to an abatement or cancellation of proceedings.[55] This process means that female victims of domestic violence often receive "reparation/compensation" in the form of a subsistence package provided by the aggressor, who is neither brought to trial nor punished for the offense committed.[56]

IV. Adolescents

Reproductive health

The increasing number of adolescent pregnancies is cause for concern in Brazil. According to the Ministry of Health, the overall fertility rate in the country is declining, with a drop across all age groups except the 15 to 19 age group.[57]

Sexual education and adolescents

In 1999, the Education Commission of the Legislative Assembly approved the implementation of programs on sexual orientation, the prevention of sexually transmissible infections, including HIV/AIDS, and the prevention of drug abuse.[58] According to this proposal, the programs should be carried out using an ongoing, multidisciplinary approach, be scheduled for at least one hour a week, and be mandatory for schools and optional for students. The commission allows schools to determine how much time should be devoted to program content, on the basis of the age bracket and needs of each class.[59]

The Ministry of Health has also developed a project called "Growing Well in Life" aimed at ten million students in public schools. The project was formulated to address the issue of pregnancy and HIV/AIDS cases among young adolescents, and focuses on providing information on sexuality, STIs, drugs and prevention.[60]

ENDNOTES

1 Fernando H. Cardoso's first presidential term began in January 1995. The last elections were held in October 1998, and Cardoso won with 53% of the vote. *See* Georgetown Univ. & the Organization of American States (OAS), *Political Database of the Americas: Brazil–1998 Presidential Election Results, available at* http://www.georgetown.edu/pdba/Elecdata/Brazil/pres98.html (last visited Jan. 27, 2000).
2 Dr. Eliana Calmon Alves was selected for the position by the President of the Republic in July 1999. She had the support of the feminist movement in the form of a chain of petition signatures sent to the president and the Minister of Justice.
3 Regulatory Instruction No. 01/98, Jan. 2, 1998. The Single Health System was created by Basic Operative Regulation 01/96. For more information, *see* The Center for Reproductive Law and Policy (CRLP) & Estudio para la Defensa de los Derechos de la Mujer (DEMUS), Women of the World: Laws and Policies Affecting Their Reproductive Lives: Latin America and the Caribbean 56 (1997).
4 Hospitals are distributed in the following manner: 517 in the northern part of the country, 2,080 in the northeast region, 685 in the west-central region, 1,918 in the southeast region, and 1,187 in the south. Brazilian Federation of Hospitals (BFH), *Distribuição dos leitos de acordo com o porte do hospital, available at* http://www.fbh.com.br (last visited June 1999).
5 Federal Council of Medicine, *Nacional Estatísticas Brasil: por estado-escolas médicas, available at* http://www.cfm.org.br/estatic.htm (last visited June 13, 1999).
6 Law No. 9,656, June 3, 1998, O.G.U. June 4, 1998.
7 *Id.* art. 12(III).
8 *Id.* art. 10(III).
9 *Id.* art. 5(II).
10 *Id.* art. 35, lit. (g), par.1.
11 Ministry of Health, Assistência Pre-Natal, Normas e Manuals Técnicos (3rd ed. 1998), *in Programas e Projetos: Saude da Mulher–Mortalidade Materna, available at* http://www.saude.gov.br/programas/mulher/mulher.htm (last visited June 6, 1999).
12 In 1996, the mortality rate from cesarean complications in Sao Paulo was 3.7 times higher than the mortality rate for normal deliveries. *See* Fundacion Sistema Estadual de Analisis de Datos (SEADE), *Mulheres em dados: Informativo mensual sobre a mulher paulista,* No. 7, Sept. 1998, at 1-2, *available at* http://www.seade.gov.br/mulherv98/informe/inform07.html.
13 *See* United Nations Population Fund (UNFPA), The State of World Population 1999 69 (1999).
14 *See* Cais do Parto, *Mortalidade materna. A vergonha do descaso*, Jornal Femea (Centro feminista de estudos e assessoria (CFEMEA), Brasilia), May 1999, at 6-7.
15 *See id.*
16 E-mail from the office of Federal Deputy Iara Bernardi, to CRLP (June 7, 1999) (on file with CRLP). The commission is in charge of investigating the causes of premature death among women, as well as finding methods to reduce this rate. *See* Instituto para Promoçao de Equidade (IPE), Women of the World: Laws and Policies Affecting Their Reproductive Lives—Latin America and the Caribbean Draft Update Report, Brazil Chapter 12-13 (1999).
17 The previous report mistakenly indicated that informed consent was required.
18 Law No. 9.263, Jan. 12, 1996, O.G.U. Jan. 15, 1996, last reform on Mar. 16, 2000. For more information, see CRLP & DEMUS, *supra* note 3, at 59.
19 This can lead to a sentence of one to two years in prison. If it is classified as the crime of genocide, the sentence is higher. Law No. 9.263, art. 17. *See also* Centro feminista de estudos e assessoria (CFEMEA), *Planejamento Familiar, available at* http://www.cfemea.org.br/04-guia/59.htm (last visited June 13, 1999).
20 Law No. 9.263, art. 15.
21 Comisión de Revisión de la Parte Especial del Código Penal, Anteprojecto de Lei: Altera dispositivos do Código Penal e dá outras providencias, Special Section, Title I, art. 130 [hereinafter Draft Bill on Penal Code Reform]. For more information on this draft bill proposal, *see infra* the sections on abortion and women's legal status.
22 Ministry of Health, Norma Tecnica de Prevenção e Tratamento de Agravos resultantes da violencia sexual contra mulheres e adolescentes 6 (1st ed. 1998), *available at* http://www.saude.gov.br/Programas/mulher/norviol.html (last visited Mar. 7, 2000) [Ministry of Health, Technical Regulation on Sexual Violence].
23 *See* Anibal Faúndes, *Anticoncepçao de Emergencia*, Jornal de Redesaúde, No. 17, May 1999, *cited in* IPE, *supra* note 16, at 14.
24 Código Penal [C.P.], Decree-Law No. 2.848, Dec. 7, 1940, with reforms. Special Section, title I, ch. I, art. 128. For more information, see CRLP & DEMUS, *supra* note 3, at 60.
25 *See* Rede Nacional Feminista De Saúde e Direitos Reproductivos (Rede Saúde*)*, Dossiê 'Aborto inseguro: Quando as mulheres morrem por serem pobres 7 (1998).
26 This draft bill proposal was presented by the Commission for the Revision of the Special Section of the Penal Code, set up by the Executive, which carries on the final draft of the bill proposal presented to the Ministry of Justice, and seeks to reform the Special Section of the Penal Code. The General Section of the Penal Code was reformed in 1984.
27 Draft Bill on Penal Code Reform, *supra* note 21, title I, ch. I, art. 127.
28 The draft bill proposal suggests that the prison sentence be reduced from one to three years in the present code, to six months to two years. It also includes the possibility of pardon in abortion cases, "in which the judge, according to the circumstances, may refrain from applying the sentence." *Id.* art. 124. Induced abortion caused by a third party with the pregnant woman's consent would also carry a lighter sentence. In the current Penal Code, the sentence for this offense is one to four years in prison, and in the draft proposal, the sentence is detention. *Id.* art. 125(I).
29 In these documents, abortion is recognized as a public health issue, since its illegal, unsafe status increases female morbidity and mortality rates. That is why it is recommended that the laws punishing voluntary abortion be revised. *Programme of Action of the International Conference on Population and Development,* ¶ 8.25, U.N. Doc. A/CONF.171/13/Rev.1 (1995), Cairo, Egypt, Sept. 5-13, 1994; *Beijing Declaration and the Platform for Action, Fourth World Conference on Women,* ¶ 106(k), U.N. Doc. DPI/1766/Wom (1996), Beijing, China, Sept. 4-15, 1995.
30 Medical care includes gathering material to identify the attacker, offering emergency contraception in cases of rape and prevention of sexually transmissible infections. Ministry of Health, Technical Regulation on Sexual Violence, *supra* note 22, at 6-7.
31 Draft Legislative Decree No. 737/98, *cited in* IPE, *supra* note 16, at 15.
32 *See* IPE, *supra* note 16, at 15.
33 This research was conducted by *Vox Populi* in 108 cities across 23 states and in Brasilia. *See id.* at 16, *citing* Em defensa dos direitos e da cidadania das mulheres, a document presented in support of the Technical Regulation that would regulate abortion services within the Health System for cases that fall under the legal exceptions.
34 *See* UNAIDS & World Health Organization (WHO), Report on the Global HIV/AIDS Epidemic 2000 132 (2000), *available at* http://www.unaids.org/epidemic_update/report/estimates.pdf.
35 *See id.* at 134.
36 *See id.* at 132.
37 In 1986, the rate was 4.3, which means that there has been an alarming 269.8% increase. *See* SEADE, *supra* note 12, at 4.
38 Law No. 9.504, Sept. 30, 1997, O.G.U. Oct. 16, 1997, art. 10, § 3.
39 Código Civil [C.C.], Law No. 3.071, approved Jan. 1, 1916, last reform in 1998, art. 1.744(III).
40 Various articles of the Civil Code go against the principle of equality stipulated in the Federal Constitution and the international treaties for the protection of human rights signed by Brazil. For a detailed discussion of these articles, see CRLP & DEMUS, *supra* note 3, at 62-63.
41 For a detailed description of this regulation, see *infra* note 26 in the section on abortion.
42 Spousal faithfulness is still considered a marital duty in the Brazilian Civil Code, and can be used as grounds for separation or divorce if a spouse fails to fulfill the duty. C.C. art. 231(I).
43 Abandonment of a pregnant woman is ceasing to provide means of subsistence to a woman for no justifiable reason during pregnancy or childbirth. Draft Bill on Penal Code Reform, *supra* note 21, title VI, art. 245.
44 Ministry of Health, Decree No. 4.883, Dec. 16, 1998. The decree regulates Amendment to the Constitution 20/98 on Social Security Reform.
45 *See* Moreira Ferreira , *Um direito da mulher, agora sem limite,* Jornal Femea*, supra* note 14, at 3.
46 *See* IPE, *supra* note 16, at 19, *citing* Draft Law No. 382/9, approved and adopted on May 27, 1999.
47 *See id.* Some articles of the draft were not approved, including the article prohibiting employers from firing employees who are suing their employers for violation of the principles of gender equality in the work place. The government justified its veto of this article by saying that it would promote stability in the work place by discouraging women workers from suing their employers solely to benefit from the regulation. The government also vetoed the article that would have made it an offense for employers to require women to present pregnancy test results or proof of sterilization. *See, e.g.,* Jornal Femea*, supra* note 14, at 4; FHC *sanciona lei sobre mulher no trabalho,* Jornal Folha de São Paulo, May 28, 1999.
48 Ministry of Health, Technical Regulation on Sexual Violence, *supra* note 22, at 2.
49 *Id.* at 3-4.
50 This shows the commission's groundbreaking interpretation with regard to sexual offenses, which fundamentally injure individual freedom and dignity, not social morality. *See* IPE, *supra* note 16, at 21-22.
51 C.P., General Section, arts. 107(VII)-(VIII).
52 However, there is a noticeable tendency in the jurisprudence toward recognizing the offense of marital rape. *See* IPE, *supra* note 16, at 20.
53 The draft bill defines sexual harassment as an offense punishable with detention of three months to a year and a fine, and describes it in the following manner: "to pester someone by directly or indirectly demanding sexual favors as a condition to create or preserve a right, or to create expectations on the part of the victim, making use of one's position, ministry, profession or any other situation of superiority." Draft Bill on Penal Code Reform, *supra* note 21, title II, art. 173.
54 A study shows that the number of cases reported in the central district of Rio de Janeiro rose from 3,631 in 1991 to 9,121 in 1996. *See* Martha M. Da Rocha, *Dealing with Crimes Against Women: Brazil, in* Inter-American Development Bank, Too Close to Home: Domestic Violence in the Americas 151 (Andrew R. Morrison & María L. Biehl eds., 1999).
55 Law 9.099, of September 26, 1995. This law establishes the judicial organization of the states and provides for special courts to hear civil cases of minor complexity and minor criminal offenses, such as offenses in the context of domestic violence and violence within the family.
56 *Id.*
57 *See* Ministry of Health, *at* http://www.saude.gov.br/Programas (last visited June 6, 1999).
58 The proposal was approved on May 19, 1999.

59 *See* E-mail from the office of Federal Deputy Iara Bernardi, to CRLP (May 31, 1999) (on file with CRLP).

60 *See* IPE, *supra* note 16, at 24. *See also* Henry J. Kaiser Family Foundation, *Brazil: Government to Begin Sex Education Teaching Project*, *at* http://www.kff.org (last visited Aug. 28, 1998), *cited in Update*, 24 Int'l Fam. Plan. Persp. 155 (1998). The web page contains provisions on the organization of prenatal care, the schedule of medical examinations, a script for the first examination and subsequent examinations, the standardization of procedures and behavior, laboratory tests as part of prenatal care and conduct, vaccination against tetanus, health education, training for compassionate delivery and childbirth, management of the most common complaints during a normal pregnancy, counseling before and after an HIV test during pregnancy, and perinatal records.