



SEXUAL AND REPRODUCTIVE RIGHTS

Fundamental sexual health, reproductive health, sexual and parenting guarantees for all, without discrimination

The UN International Conference on Population and Development (ICPD)

Cairo, 1994

Shifted population policy and debate towards promoting human well-being, drawing attention to a need to **invest in women and young people's sexual and reproductive health.**⁽¹⁾

Fourth World Conference on Women

Beijing, 1995

Redefined **reproductive and sexual rights as human rights** via the concept of gender, the notion of women's empowerment, and the importance of a transversal approach.⁽²⁾

These two groundbreaking conferences emphasized the need to promote:

- 1) equality between men and women as an essential requirement for achieving better health conditions and quality of life for all;
- 2) the responsibility of men in sexual and reproductive health-related matters; and also
- 3) adolescents' access to information and adequate sexual and reproductive health services.

In Brazil, sexual rights and reproductive rights ARE HUMAN RIGHTS

SEXUAL RIGHTS

All people have the right:

- TO FREELY EXPRESS THEIR SEXUAL ORIENTATION and sexuality without fear, shame, guilt, false beliefs, violence, discrimination and other impositions.
- TO INDEPENDENTLY CHOOSE WHETHER OR NOT TO HAVE SEX with someone, respecting the consent of the other person(s) involved.
- TO ACCESS SEX EDUCATION AND HEALTHCARE WITH THEIR PRIVACY AND CONFIDENTIALITY RESPECTED, AND WITHOUT DISCRIMINATION, AS WELL AS TO ACCESS SAFE SEX PRACTICES to prevent sexually transmitted diseases and unwanted pregnancies.

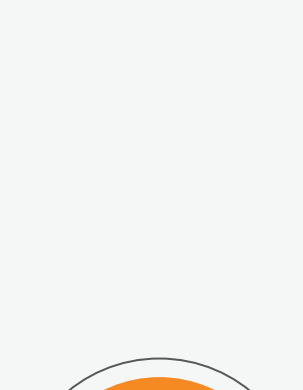


In Brazil, sexual intercourse independent of reproduction IS A RIGHT

REPRODUCTIVE RIGHTS

All people have the right:

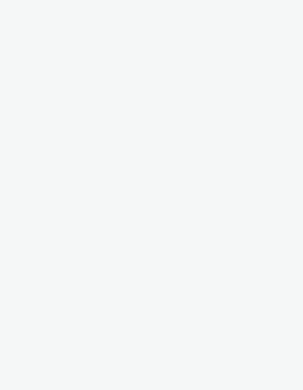
- TO FREELY AND RESPONSIBLY DECIDE WHETHER OR NOT TO HAVE CHILDREN, AND - IF SO - HOW MANY CHILDREN AND WHEN.
- TO MAKE REPRODUCTIVE CHOICES FREE OF DISCRIMINATION, IMPOSITION, AND VIOLENCE.
- TO ACCESS INFORMATION, MEANS, METHODS, AND TECHNIQUES FOR (NOT) HAVING CHILDREN.



CONTRACEPTION RIGHTS

Given that disregard for reproductive rights primarily impacts those whose bodies can bear children, it is necessary to ensure:

- THE RIGHT TO ACCESS VARIED CONTRACEPTION METHODS through public healthcare services;
- THE RIGHT TO EMERGENCY CONTRACEPTION, such as the morning-after pill.



ABORTION RIGHTS

Every day, an average of 535 people are hospitalized in Brazil due to unsafe clandestine or self-induced abortions⁽³⁾.

The right to legally abort a pregnancy exists if:

- there is no other way to save the pregnant woman's life;
- the pregnancy is the result of rape and the abortion is consented to by the pregnant woman (or her legal representative, if she is incapable of giving consent);
- there is a fetus with anencephaly.



WITH THE EXCEPTION OF THESE CASES, ABORTION IN BRAZIL IS A CRIME IN THE CRIMINAL CODE.

PARENTING RIGHTS in Brazil

THE RIGHT TO GIVE UP BABIES FOR ADOPTION⁽⁴⁾

• Women (or couples) who voluntarily give up their children for adoption at a juvenile court are not held criminally for child abandonment. Pregnant women or mothers who express interest in giving up their children for adoption shall receive psychological assistance from the State before and after birth – including as a way of preventing or alleviating the consequences of puerperal (postpartum) disorders – and be directed to a juvenile court.

THE RIGHT TO ADOPTION⁽⁵⁾

• IN AN ADOPTION PROCESS, THE RIGHTS AND INTERESTS OF THE CHILD OR ADOLESCENT MUST PREVAIL.

Adoption will be granted when:

- it presents real advantages for the child or adolescent;
- is based on legitimate reasons – there must be correct, fair, authentic, and ethical motivations;
- it must not imply an attempt to reduce a child to a mere object;
- it must not be seen as a solution for those seeking a sense of meaning in their lives, nor as a form of therapy for rebuilding marriages in crisis.

• Anyone over the age of 18 may adopt a child, regardless of their marital status. However, if a couple seeks to adopt, they must be married or have entered into a civil union.

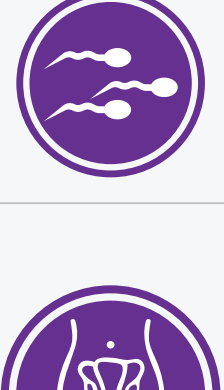
• THE LEGISLATION DOES NOT PROHIBIT ADOPTION BY SAME-SEX COUPLES, AND THEREFORE THEY SHOULD ALSO CONSIDER ADOPTION THEIR RIGHT.

• Adopted children shall have the same rights as biological children, and any discriminatory designations regarding filiation are prohibited.

THE RIGHT TO ASSISTED REPRODUCTION



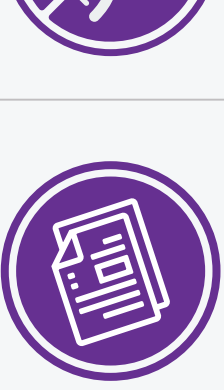
• Assisted reproduction concerns medical techniques that enable human reproduction, facilitating the process of procreation. Ethical standards for the use of assisted reproduction are set forth in the Brazilian Council of Medicine's Resolution No. 2168/2017;



• SINGLE PEOPLE AND PEOPLE IN SAME-SEX RELATIONSHIPS are allowed to access assisted reproduction techniques;



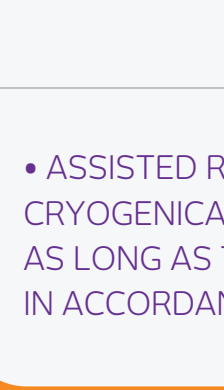
• Egg and sperm donors must not know the identity of the recipients, and vice versa;



• RECIPROCAL IN VITRO FERTILIZATION – where the resulting embryo from one woman's fertilized egg(s) is transferred to her partner's uterus – IS PERMITTED FOR FEMALE HOMOSEXUAL UNIONS, so long as the carrier is not infertile;



• Assisted reproductive techniques cannot be applied with the intention of selecting the sex or any other biological characteristic of the future baby;



• USING ASSISTED REPRODUCTION TECHNIQUES FOR SURROGACY IS PERMITTED as long as a medical problem impedes or contraindicates pregnancy for the donor, same-sex union, or single person;



• SURROGACY CANNOT BE OF A LUCRATIVE OR COMMERCIAL NATURE. Surrogate mothers must be related to one of the partners within four degrees of consanguinity (first degree – mother/daughter; second degree – grandmother/sister; third degree – aunt/niece; fourth degree – cousin). Other cases are subject to authorization by the Regional Council of Medicine;

• ASSISTED REPRODUCTION INVOLVING A DECEASED PERSON'S CRYOGENICALLY PRESERVED BIOLOGICAL MATERIAL IS PERMITTED, IN ACCORDANCE WITH THE LAW.

THE RIGHT TO CIVIL REGISTRATION OF DUAL MOTHERHOOD OR FATHERHOOD

- Provision 63/2017 of the Brazilian Council of Justice ensures that in cases of children born to homosexual couples by assisted reproduction techniques, the birth certificate must include the parents' names without reference to distinction as to paternal or maternal ancestry (Article 16, §2º).
- This provision does not apply to cases that do not involve assisted reproduction.

SOURCES:
 (1) United Nations Population Fund. Accessed on May 29, 2021.
 (2) Beijing Declaration and Platform for Action. Accessed on May 29, 2021.
 (3) DataSUS.
 (4) Brazilian Law No. 8.069/1990 ("Estatuto de Criança e do Adolescente").
 (5) Idem.

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