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To: The Committee on the Elimination of Discrimination against Women  
Re: Report of the Government of Brazil to the Committee's 39<sup>th</sup> Session, 23 July-10 August 2007

Dear Committee Members:

We are submitting this letter to supplement the sixth periodic report of the Government of Brazil, dated 29 August 2005, which the Committee on the Elimination of Discrimination against Women (the Committee) will review during its 39<sup>th</sup> Session to be held from 23 July to 10 August 2007. Ipas Brazil is an independent non-governmental organization that has worked intensively with the government to increase women's ability to exercise their sexual and reproductive rights and to reduce maternal mortality and injuries among women due to unsafe abortion.

Our letter is intended to complement the shadow report presented by other civil society organizations and to provide additional information requested by the Committee included in the List of Issues and questions with regard to consideration of periodic reports, from February 26, 2007 in the item 24 related to Health. It provides updated data on unsafe abortion in Brazil that emerged from research on the magnitude of abortions in the country; the study was conducted by Ipas Brazil in partnership with the Institute of Social Medicine and supported by the Ministry of Health. We hope that the information and considerations named in this letter will contribute to your work in monitoring compliance with the rights protected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

We appreciate the opportunity to bring information and present suggested questions to CEDAW Committee to be presented to the Government of Brazil in its next period of sessions.

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### **Suggested Questions for the Brazilian Government**

1. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women establishes that countries must repeal penal provisions which constitute discriminatory criminalization of women. The Ministry of Health of Brazil recently declared that unsafe abortion should be seen as a public-health issue, implying that criminalization of abortion violates women's right to health care without discrimination. In this light, what steps is the Brazilian government taking to amend current abortion legislation in order to protect their right to health and their right to life?
2. How does the Brazilian government plan to deal with possible opposition within the Parliament to any changes regarding indications for abortions permitted by law and continue the work done by the Tripartite Commission in 2005, which elaborated a proposal of legislation that would increase women's access to safe and legal abortion in the country and protect women's autonomy and their right to non-discrimination in health care?
3. How does the Brazilian government plan to provide access to safe and legal abortion (according to the Article 128, sections I and II from the Brazilian Penal Code) and deal with obstruction of women's right to health due to the alleged right to conscientious objection exercised by health-care providers?
4. How does the Brazilian government propose to equalize access to safe abortion care in the country for all women regardless of their racial and ethnic, geographic location and age status?

### **Violations of the right to equality, the right to non-discrimination in health-care and the right to health**

The consequences of unsafe abortions have made this entirely preventable health problem one of the top five causes of women's pregnancy-related deaths in Brazil.<sup>1</sup> The percentage distribution of mortality due to abortion complications further shows evidence of having a greater negative impact on women of certain races: white women: 7.62%; black women: 14.19%; and women of mixed race: 11.04%.<sup>2</sup>

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<sup>1</sup> Research on mortality among women aged 10-49 years, with an emphasis on maternal mortality. Draft Final Report Draft. Ministry of Health, Brasília, DF, 2006.

<sup>2</sup> Ministry of Health/Secretary of Health Watch/Brazilian Health 2005; <http://tabnet.datasus.gov.br>

Abortion represents a serious problem related to inequities of public health and social justice in Brazil. The practice of abortion has been criminalized through penal law except for only two circumstances: in cases of sexual violence (statutory rape) or when a woman's life is endangered by pregnancy (Article 128, I and II of the Penal Code). Nevertheless, many pregnancies are terminated through clandestine procedures using inadequate equipment and in unsafe conditions, causing injuries and maternal deaths. Estimates for 2005 produced a total of 1,054,243 million abortions performed in the country; about 85% of these cases end up for treatment in the public health system because of complications. The illegality of most of these procedures meant that women feel constrained and fearful of presenting with complications to health services; this in turn means that the phenomenon is under-reported. Indeed, there have been cases in which health-care providers have reported women *suspected* of having an induced abortion to law enforcement authorities. In some instances, women have subsequently been imprisoned.<sup>3</sup>

The Constitution regulates the right to health and a right to maternity protection in its section on social rights.<sup>4</sup> The Health Ministry has also determined that conscientious objection is not acceptable in the following cases: a) when an abortion is necessary because a woman's life is in danger; b) when a requested abortion is considered legal and there is no other doctor available to perform the procedure and when a woman would suffer a severe risk of ill health due to the doctor's refusal of care; and c) when treating complications of an unsafe abortion, which constitute an situation of emergency care. <sup>i</sup>

However, women are having problems in accessing abortions for indications permitted by law because of the widespread use of "conscientious objection" by health-care providers.

Research in hospitals and maternity clinics in 2005 indicated that only 37 cases of abortion for women and girls who suffered incest and rape had been recorded. Research by Ipas Brazil in 2006 revealed that some physicians do not believe women are telling the truth when they report having been raped, so they do not believe the women qualify for a legal abortion. Ipas further found that of 40 physicians working at sexual violence assistance services, only two female doctors were willing to perform legal abortions. Sometimes patients had to wait at the hospital until a shift change as none of the doctors on duty would carry out the procedure. This situation led to some women

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<sup>3</sup> See Report on Maternal Mortality and Human Rights, ADVOCACI, 2005.

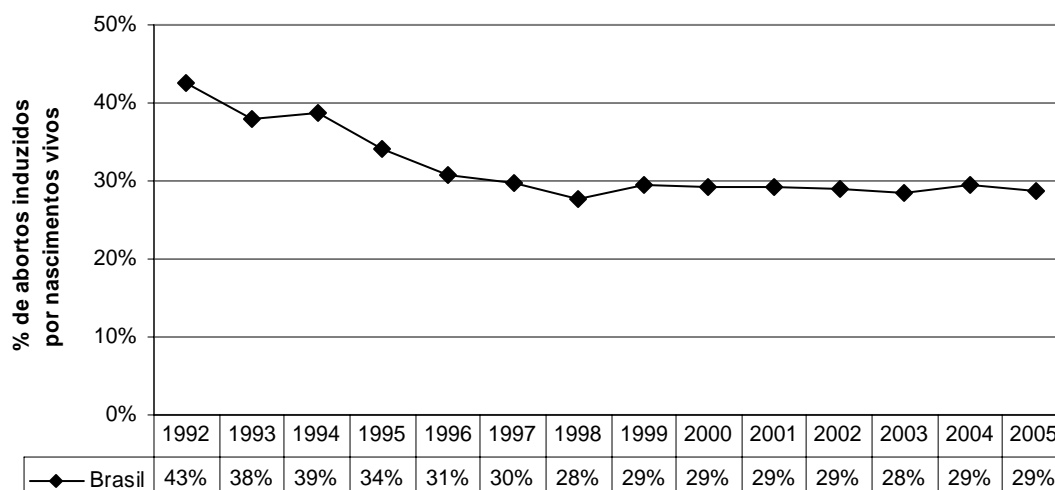
<sup>4</sup> Article 6: "The following are considered social rights: education, health, employment, leisure, security, social security, protection of maternity and infancy, assistance to the abandoned, in the form of this Constitution." Article 196 states that: "everyone has the right to health and it is the State's responsibility, by social and economic policies, reductions in the risks for diseases and other injuries, and the universal and egalitarian access to actions and services for its promotion, protection and recovery."

leaving the service without obtaining a legal abortion. Clearly, the use of conscientious objection is leading to a violation of women’s rights to be treated without discrimination, to self-determination, to freedom and personal safety.

### Ipas Brasil Abortion Magnitude Study Findings

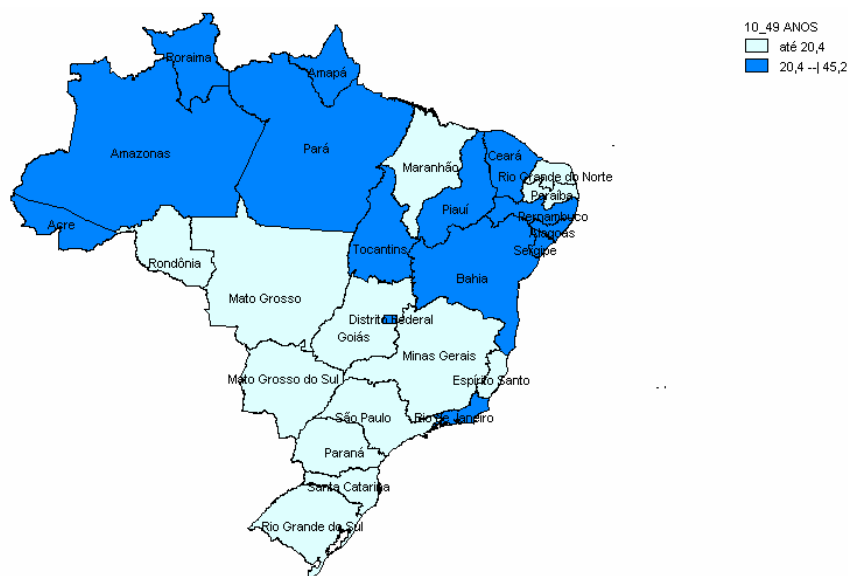
Findings from our research on the magnitude of abortions show that the incidence of abortions declined during the period 1992–2005, but a large number of pregnancies are still being terminated.

**Number of induced abortions relative to 100 live births  
Brazil: 1992 to 2005**



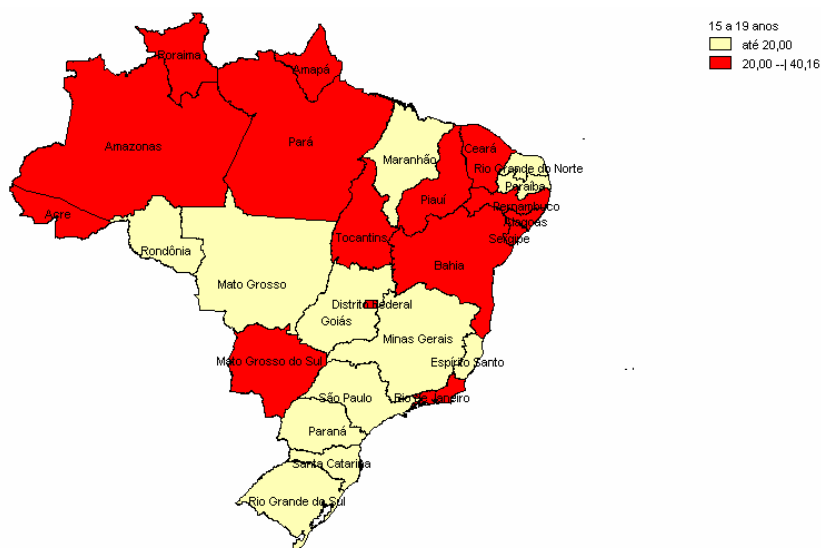
Sources of primary data: the number of induced abortions was estimated based on hospitalizations for abortions registered by the Ministry of Health–System of Hospital Information of the UHS (SIH/UHS). The number of births was estimated using the Crude Birth Rate disseminated by the IBGE.

The geographic distribution of health risks related to abortions is unequal throughout Brazil. The economically better-off states of the Southeastern (except for Rio de Janeiro), Southern and Midwestern (except for the Federal District) regions presented rates lower than 20.4 abortions/1000 women aged 10–49 years. In the more economically deprived states of the North (except for Rondônia) and Northeast (except for Rio Grande do Norte and Paraíba), the rates are greater than 21.1/1000 (State of Rio de Janeiro), culminating in a rate of more than 40 abortions/1000 women aged 10–49 years in the States of Acre and Amapá (see the figure below).



Source: Ministry of Health–System of Hospital Information of the UHS (SIH/UHS)

The data further show that adolescents aged 15–19 years in the Northern and Northeastern regions, the Federal District, and the states of Mato Grosso South and Rio de Janeiro suffer greater risks from induced abortions (see figure below).



Women of color especially suffer a greater proportion of deaths due to easily preventable pregnancy-related causes, such as edema, proteinuria, hypertensive disorders, problems during childbirth and in the puerperium, and unsafe abortions. In comparison with white women, black women’s mortality risks from these causes are approximately three times greater.

In Article 12.2, CEDAW stipulates that the State must take necessary measures to eliminate discrimination against women in order to guarantee their access to health-care services based on equal rights between men and women. In Brazil, the human right to equality and non-discrimination in accessing health-care services has not yet been reasonably guaranteed as shown by data on maternal morbidity and mortality; this is particularly true for women belonging to certain social groups such as those of African heritage, adolescents and women living in the poorer regions of the country.

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<sup>i</sup> Brasil, Ministério da Saúde. Norma Técnica Atenção Humanizada ao Abortamento. Ministério da Saúde: Brasília – DF, 2005b: p.15