

Rape, Child and Abortion: from Ideologization to Rights Violation in Brazil

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Abstract

Objective: Analyze the abortion of a pregnant 10-year-old girl who was repeatedly raped by her uncle in the state of Espírito Santo paralyzed Brazil. Pregnancy was revealed on the 7th of August, when the girl went to a local hospital suffering from abdominal pain. The girl claimed that she has been raped by the relative since she was 6 years old and that she did not report him to the authorities before, due to the fear caused by the uncle's threats.

Methods: Studies were identified using large-circulation international journals found in two electronic databases: Scopus and Embase.

Results: There are three situations in which abortion is authorized by the Brazilian Constitution and this girl was experiencing two of them: she was a victim of rape and the pregnancy brings death risk. The judicial evaluation is needless in this case, especially because it regards a situation of life risk; the debate occurs because of a "ideologization of the abortion matter in Brazil".

Conclusion: Brazilian Health Ministry published an ordinance which determines the new rules and procedures to be followed to acquire authorization of abortion in cases established by law. With this measure, practitioners are compelled to contact the police in cases which patients are victims of sexual abuse. According to ordinance 2.282, physicians must preserve possible material evidence of the crime of rape, and forward it immediately to the authorities, such as embryonic or fetal fragments aiming the conduction of genetic clashes which may lead to the respective criminal identification. The measure is a severe confidentiality violation as the victim gets to the hospital to be assisted and not investigated.

Keywords: Abortion; Death Risk; Victims of Sexual Abuse; Pregnant

The abortion of a pregnant 10-year-old girl who was repeatedly raped by her uncle in the state of *Espirito Santo* paralyzed Brazil (Journal GGN,2020) [1]. Pregnancy was revealed on the 7th of August, when the girl went to a local hospital suffering from abdominal pain. The girl claimed that she has been raped by the relative since she was 6 years old and that she did not report him to the authorities before, due to the fear caused by the uncle's threats. He was 33 and was indicted for rape of a vulnerable and continuous threat (G1, 2020) [2]. The various attempts to avoid the abortion of the child created a profound outrage of the medical class, mainly gynecologist and obstetricians who urge for the risks of taking forward a child pregnancy (UOL, 2020a) [3]. How to imagine a 10-year-old girl victim of rape? (El Pais, 2020a) [4].

One of the girl's physicians who attended the case claimed that she was holding a teddy bear against her chest and just the conversation about the gestation was a trigger to her suffering. She was screaming and crying just reaffirming her non-consent, according to the decision of the court. Besides the girl, her family were in favor of the pregnancy interruption (A Gazeta, 2020) [5]. The case is a "good example" of how criminalization of abortion represents a violation to girls and women's rights (El Pais, 2020b) [6]. It is an atrocious psychological ache. There is no bonding sentiment between the woman and the gestation. Whether it exists, it turns out to be a feeling of anger and repulse (El Pais, 2020c) [7].

It is important to highlight that every day in Brazil, six girls from 10 to 14 years old are admitted into hospitals to undergo abortion. Even more horrendous than this fact, only the number of victims of presumed rape (all pregnancy under 14 years old is considered this way) who are impeded of aborting: more than 20 thousand. Most of these girls who end up giving birth are black and periphery inhabitants (Jornal GGN, 2020) [1].

What is observed in this case is a situation of high life risk, because it is an unprepared infant body for a pregnancy. Cases like this are pandemic: each hour, four Brazilian girls up to 13 years old are raped, according to the Brazilian Public Security Yearbook, and most of the crimes is perpetrated by a relative (El Pais, 2020b) [6].

Imagine a baby passing through a birth canal of a child who does not possess a completely developed pelvis? Says the gynecologist and obstetrician Melania Amorim, professor of the Federal University of Campina Grande (UFCG). According to her, the risks of a precocious pregnancy are really elevated; that is, the younger the patient the greater the complications (UOL, 2020a) [3].

A judge was convoked. The sentence is original to some individuals, because it expresses the "will of the girl". Yes, a 10-year-old girl has a will on this case: she was shattered by hearing that she would have to carry on with a pregnancy and become a mother. The grandmother could feel strongly the desperation of her granddaughter, but the cowards joined forces with the fanatics to enquire judicial procedures and gestational limits of pregnancy. There are three situations in which abortion is authorized by the Brazilian Constitution and this girl was experiencing two of them: she was a victim of rape and the pregnancy brings death risk. There is no more questioning – abortion is the best choice for the girl's well-being – as early as possible – and in consideration to the victim, without public fuss (El Pais, 2020c) [7].

The court of law of *Espirito Santo* state grant to the child the right to interrupt a pregnancy result of a rape. In Brazil, the procedure is authorized by the Constitution in sexual abuse cases and when life risk exists towards the pregnant (UOL, 2020a) [3]. It is important to take into account that the Brazilian criminal code of 1940 already guarantees the right of abortion in these situations. The judicial evaluation is needless in this case, especially because it regards a situation of life risk; the debate occurs because of a "ideologization of the abortion matter in Brazil" (El Pais, 2020b) [6].

The gynecologist and obstetrician representative of the "Medical Network for the Right to Decide" defends that practitioners have to be trained to attend cases of legal interruption of the pregnancy. For him, conscientious objection cannot lead to the lack of aid (El Pais, 2020c) [7].

In this context, Brazilian Health Ministry published an ordinance which determines the new rules and procedures to be followed to acquire authorization of abortion in cases established by law. With this measure, practitioners are compelled to contact the police in cases which patients are victims of sexual abuse. According to ordinance 2.282, physicians must preserve possible material evidence of the crime of rape, and forward it immediately to the authorities, such as embryonic or fetal fragments aiming the conduction of genetic clashes which may lead to the respective criminal identification. For the anthropologist Débora Diniz, the measure is a severe confidentiality violation as the victim gets to the hospital to be assisted and not investigated (UOL,2020b) [8].

In agreement with Débora Diniz, the ordinance transforms the operation of a legal abortion service in a police department. It creates a bunch of barriers and comes from a clear ideologization of science, a selective science, which the only purpose is to frighten women who seek for abortion (Jornal de Brasilia, 2020) [9].

In this context, we call for an international debate, to answer the following question: How a 10-year-old girl who was raped cannot have her desire respected in defense of her pain and psychic sorrow?

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