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Brazilian abortion law: the opinion of judges and prosecutors

ABSTRACT

OBJECTIVE: To analyze the opinion of judges and prosecutors concerning Brazilian abortion law and situations in which the abortion should be allowed.

METHODS: A cross-sectional study was performed with 1,493 judges and 2,614 prosecutors in Brazil between 2005 and 2006. Participants completed a structured questionnaire approaching sociodemographic characteristics, opinions about abortion law, and circumstances in which abortion is considered lawful. Bivariate and multivariate analyses of data were carried out through Poisson regression.

RESULTS: The majority of participants (78%) found that the circumstances in which abortion is considered lawful should be broadened, or even that abortion should not be criminalized. The highest rates of pro-abortion opinions resulted from: risk to the life of the mother (84%), anencephaly (83%), severe congenital malformation of fetus (82%), and pregnancy resulting from rape (82%). Variables related to religion were strongly associated to the opinion of participants.

CONCLUSIONS: There is a trend in considering the need of changing the current abortion law, in the sense of widening the circumstances in which abortion is considered lawful, or even toward decriminalizing abortion, regardless of the circumstances in which it takes place.

DESCRIPTORS: Abortion, Legal. Abortion, Criminal. Criminal Law, legislation & jurisprudence. Public Attorneys. Social Perception.

INTRODUCTION

In most developed countries, abortion is considered lawful to save the life of the mother, to preserve the mother's mental or physical health, in the event the pregnancy resulted from rape or incest, in cases of fetal anomaly, for economical or social reasons, and at the request of the mother.^{10a} In Latin America and the Caribbean, abortion is only considered a legal practice in reduced circumstances, and the most accepted reasons are connected to situations involving the life and health of the mother. As a result of the laws against abortion, almost all abortions are carried out illegally, thus presenting risks to the health and lives of women and contributing to the high maternal mortality rate.²¹

In Brazil, the Criminal Code establishes, since 1940, that abortion practiced by a physician is not punishable by law when there is no other way of saving the

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^a Center for Reproductive Rights. The world's abortion laws [internet]. New York, 2008 [citado 2008 mar 25]. Disponível em: http://www.reproductiverights.org/pub_fac_abortion_laws.html

life of the mother or when the pregnancy resulted from rape.^{8,19} All other cases are punishable by Brazilian law, with sentencing varying from one to ten years in prison for the mother and for the person who performed the abortion. The latter may be sentenced to twice the time in prison in the event of maternal death.^b Despite the law against the practice, it is estimated that illegal abortions in Brazil in 2005 totaled 1,054,242.¹⁸

In practice, despite the Brazilian legislation in the above-mentioned circumstances, access to lawful abortion faces many obstacles.^{8,b,c} For a long time, only abortions in situations in which the life of the mother was at risk were performed in hospitals, whereas rape victims were rarely admitted to public hospitals, thus leading them to resort to illegal abortion clinics.⁸

As the public health services become more sensitive to admitting abortion patients in the cases already provided for in Brazilian law,⁹ there is a growing need to deal with the abortion in cases of fetal abnormalities which are incompatible with live births. Technological developments has enabled the early diagnosis of such abnormalities, and this has given rise to a paradoxical situation: it is possible to detect intra-uterus anomalies incompatible with a live birth, but it is not legally possible to offer the parents the alternative of mitigating the pain and suffering resulting from this diagnosis.¹⁴ This situation has resulted in a growing demand for court orders allowing interruption of pregnancy in these cases.²¹ Frigério et al¹⁴ (2004) in a study carried out between August 1996 and June 1999 identified 263 lawsuits involving selective abortion and suggested this figure to being underestimated.

In April 2004, the Brazilian Supreme Court granted an injunction to the *Confederação Nacional dos Trabalhadores na Saúde* (CNTS – National Confederation of Health Workers) authorizing them to interrupt a gestation if the event of anencephalic babies. In the same year, the injunction was lifted and the *Arguição de Descumprimento de Preceito Fundamental* (ADPF – Defense of Non-compliance to Fundamental Constitutional Principle), submitted by the CNTS has still not been heard.⁶

In this dynamic scenario, where society pressures for changes to the law, the induced abortion issue has mobilized several sectors of Brazilian society, such as lawyers, healthcare professionals, congressmen and women's groups.¹⁷ The courts have played an important role in this process, since it is the Judiciary that enforces the laws – and their amendments – passed by the Legislature. These entities, therefore, can be seen as essential actors in the process of discussing laws which address the challenge of changing the principles behind reproductive rights in statutes.⁵

The objective of this study was to analyze the opinion of judges and prosecutors about the current Brazilian legislation and the circumstances in which induced abortion should be allowed.

METHODS

A cross-sectional descriptive study was carried out based on a pre-tested structured questionnaire, answered by judges members of the *Associação dos Magistrados Brasileiros* (AMB – Brazilian Magistrates' Association) and by prosecutors associated to one of the 29 *Associações do Ministério Público do Brasil* (Public Ministry Associations) (26 in the states and three in the Federal District).

The questionnaire and a covering letter, together with a prepaid response envelope, were sent out to 11,286 judges and 13,592 prosecutors through their respective association's mailing list. The judges received the pack in the end of 2005 and prosecutors in the beginning of 2006. The pack was sent a second time in an attempt to increase the response rate of both categories. It was necessary to send the whole pack to all potential participants again since it was impossible to verify those who had responded from those who had not due to the confidentiality treatment given to responses.

The response rate was 14% (1,550) for questionnaires sent out to judges, 50 of which were sent back in blank, and seven with the explanation that the judge was deceased. Therefore, 1,493 was the number of questionnaires answered by judges included in the study. The response rate for prosecutors was 20% (2,716), out of which 101 were returned in blank and one with the information the potential respondent was deceased. As a result, 2,614 questionnaires answered by prosecutors were included in this study and the sample totaled 4,107 participants. The questionnaires answered were reviewed, numbered and double entered.

The dependent variables analyzed were: opinion on current abortion laws (increasing the number of situations in which abortion is legal/decriminalizing *versus* limiting the number of situations in which abortion is legal/criminalizing it permanently/not changing it) and opinion on the circumstances in which abortion should be allowed (risk to the life of the mother; anencephaly diagnosis; severe congenital malformation incompatible with life outside the uterus; pregnancy resulting from rape; pregnancy poses danger to the physical health of the mother; pregnancy poses danger to the mental health of the mother; in any circumstance; under no circumstance). The independent variables were: age (in years), gender (male; female), marital status (single; with partner), number of children (up to two; three or

^b Torres JHR. Aspectos legais do abortamento. *J Rede Saude*. 1999;18:7-9.

^c Portella AP. Aborto: uma abordagem da conjuntura nacional e internacional. Recife: SOS Corpo; 1993.

more), unwanted pregnancy, and abortions of women respondents (never experienced unwanted pregnancy/experienced unwanted pregnancy and never had an abortion *versus* experienced unwanted pregnancy and had an abortion), occupation (judge; prosecutor), geographical area (North/Northeast/Central-West/Southeast/South of Brazil), work experience (in years), jurisdiction (capital city and inner state, or only inner state), instance (appellate court; trial judge/retired), court of law (criminal; other courts: civil law, labor law, child and juvenile courts and retired judges), level of court (federal and state court; only state); religion (religious; intermediary/non religious); importance of religion (very important; of little importance/unimportant/not religious) and importance of personal religious views on the answers given (very important; of little importance/unimportant/not religious).

Concerning the religiousness variable, respondents were classified according to a score created based on the combination of the answers to both questions in the questionnaire that addressed the aspects of belief, religious practice, and self-perception on how much religion affects respondent's professional activity. The choice of these dimensions to measure religiousness was based on the model proposed by Glock & Stark^d (1965) to assess to what extent commitment to religion interferes in the conduct and attitude of individuals.^{4,16,21}

Respondents' opinion on abortion laws and circumstances in which abortion should be allowed was described. A bivariate analysis was carried out through the distribution of the frequencies of each one of the dependent variables (opinions) according to the categories of the independent variables. A specific chi-square test¹ was performed for each dimension of the tables (Pearson's chi-square for general tables, and chi-square with Yates correction for 2x2 tables). For the age and working experience variables the linear trend test was performed.¹

Nine Poisson regression models³ were developed concerning the dependent variables: opinion on current abortion laws (increasing the number of situations in which abortion is legal/decriminalizing *versus* limiting the number of situations in which abortion is legal/criminalizing it permanently/not changing it) and opinion on the circumstances in which abortion should be allowed (risk to the life of the mother; anencephaly diagnosis; severe congenital malformation incompatible with life outside the uterus; pregnancy resulting from rape; pregnancy poses danger to the physical health of the mother; pregnancy poses danger to the mental health of the mother; in any circumstance; under no circumstance). The independent variables were: age

(in years), gender (male; female), marital status (single; with partner), number of children (up to two; three or more), unwanted pregnancy, and abortions of women respondents (never experienced unwanted pregnancy/experienced unwanted pregnancy and never had an abortion *versus* experienced unwanted pregnancy and had an abortion), occupation (judge; prosecutor), geographical area (North/Northeast/Central-West/Southeast/South of Brazil), work experience (in years), jurisdiction (capital city and inner state, or only inner state), instance (appellate court; trial judge/retired); court of law (criminal; other courts: civil law, labor law, child and juvenile courts and retired judges), level of court (federal and state court; only state); religion (religious; intermediary/non religious); importance of religion (very important; of little importance/unimportant/not religious) and importance of personal religious views on the answers given (very important; of little importance/unimportant/not religious).

This study was carried out in compliance with Brazilian norms for research on human beings and the protocols received the approval of the Research Ethics Committee from the *Faculdade de Ciências Médicas* at the *Universidade Estadual de Campinas* (Reviews 596/2004 and 081/2005).

RESULTS

In the sample approximately two fifths (41%) of respondents were 50 years of age or above, most of them (69.9%) were male, and reported living with a partner (76.6%), and having up to two living children at the time of response (69.9%). Twelve percent of respondents answered that when faced with an absolutely unwanted pregnancy they had chosen to have an abortion done. Concerning their professional activities, 63.6% of respondents were prosecutors and 36.4% judges. A little over three fifths worked in the Southern and Southeastern regions of Brazil (65%). Only 8.7% had been working for more than 25 years, and 62.5% had worked or were currently working in innerstate courts. A little under half of the respondents (48.9%) worked in criminal courts. Only 14.8% worked at Appellate Courts and 7.7% at the Federal level. Most participants were classified as not religious or of intermediary religiousness (86.5%), only 21.5% answered that their religion played an important role over the answers they provided; 24.4% gave the same answer concerning the importance of their personal religious beliefs (Data not shown on table).

When asked to express their opinion concerning the Brazilian laws that address the abortion issues, 78% of respondents considered that the circumstances in

^d Glock CY, Stark R. Religion and society in tension. Chicago: Rand McNally, 1965. In: Swatos Jr WH. Encyclopedia of religion and society. Hartford: Hartford Institute for Religion Research [internet]. [citado 2008 jun 25]. Disponível em: <http://hrr.hartsem.edu/ency/religiosity.htm>

Table 1. Distribution of participant frequency according to the opinion on possible changes to Brazilian abortion laws and sociodemographic characteristics. Brazil, 2005-2006.

Variable	Opinion						N	p
	Increase lawful abortion circumstances/ Decriminalize		Limit lawful abortion circumstances/ Criminalize permanently		Remain unchanged			
	n	%	n	%	n	%		
Age (years) ^a								
≤ 39	1116	82.3	81	6.0	159	11.7	1356	<0.001
40 to 49	738	80.4	76	8.3	104	11.3	918	
≥ 50	1125	72.5	178	11.5	249	16.0	1552	
Gender								
Male	2039	75.5	253	9.4	408	15.1	2700	<0.001
Female	978	83.5	84	7.2	109	9.3	1171	
Marital status								
In partnership	2279	77.0	263	8.9	419	14.2	2961	0.037
Not in partnership	733	80.8	73	8.0	101	11.1	907	
Number of children								
≤ 2	2175	81.2	191	7.1	313	11.7	2679	<0.001
≥ 3	824	70.5	144	12.3	201	17.2	1169	
Unwanted pregnancy and abortion								
Never/Yes, but no abortion	2421	76.9	285	9.0	444	14.1	3150	<0.001
Yes and had an abortion	388	88.0	25	5.7	28	6.3	441	
Occupation								
Judge	1092	78.0	122	8.7	186	13.3	1400	0.980
Prosecutor	1929	77.8	215	8.7	335	13.5	2479	
Geographical area								
N/NE/CW	1002	76.7	127	9.7	177	13.6	1306	0.185
SE/S	1914	78.8	195	8.0	321	13.2	2430	
Work experience (years) ^a								
≤ 9	1044	83.7	72	5.8	132	10.6	1248	<0.001
10 to 25	1466	77.3	163	8.6	268	14.1	1897	
≥ 26	208	72.2	36	12.5	44	15.3	288	
Jurisdiction								
Capital and inner state	1167	79.9	121	8.3	172	11.8	1460	0.043
Inner state only	1848	76.7	215	8.9	347	14.4	2410	
Instance								
Appellate Court	433	76.8	49	8.7	82	14.5	564	0.702
Trial Court	2553	78.1	284	8.7	433	13.2	3270	
Area of law								
Criminal/Specialized court	1498	78.5	162	8.5	249	13.0	1909	0.666
Other areas	1513	77.3	174	8.9	271	13.8	1958	
Level of court								
Federal and state court	249	83.6	24	8.1	25	8.4	298	0.023
State court only	2763	77.4	312	8.7	493	13.8	3568	
Religiousness								
Religious	213	44.3	121	25.2	147	30.6	481	<0.001
Intermediary/Not religious	2625	83.7	178	5.7	335	10.7	3138	

To be continued

Table 1 continuation

Variable	Increase lawful abortion circumstances/ Decriminalize		Opinion				N	p
	n	%	Limit lawful abortion circumstances/ Criminalize permanently		Remain unchanged			
			n	%	n	%		
Importance of religion								
Very important	350	44.8	192	24.6	239	30.6	781	<0.001
Little/No importance/Not religious	2519	87.0	121	4.2	257	8.9	2897	
Importance of religious views								
Very important	437	51.2	190	22.2	227	26.6	854	<0.001
Little/No importance/No religious views	2341	86.3	118	4.3	255	9.4	2714	

^a Pearson's chi-square test

N: North, NE: Northeast, CW: Central-West, SE: Southeast, S: South

which abortion is considered lawful should be widened or that Brazilian laws should decriminalize all kinds of abortion. To 9% of respondents abortion should always be considered illegal or there should be a limited number of lawful abortion situations, and 13% were of the opinion that the law should remain as is (Data not shown on table).

In the bivariate analysis there were no significant differences concerning the opinion of respondents about the law in the following variables: occupation, region, instance and jurisdiction. However, the opinion that circumstances should be widened/abortion should be decriminalized was associated to: being under 40 years of age (82.3%), being a female (83.5%), not living with a partner (80.8%), having up to two children at the time of response (81.2%), having undergone an abortion in an unwanted pregnancy situation (88%), shorter work experience in the field (83.7%), working in the capital city of the state (79.9%), working at federal and state levels (83.6%), intermediary religiousness/not religious (83.7%), little or no importance of religion or not having a religion (86.6%), and little or no importance or not having individual religious views (86.3%). It was found that there was a linear association trend between age and work experience with the opinion that the situations in which abortion is considered lawful should be widened/

decriminalize abortion; this opinion was more frequent as age and work experience decreased (Table 1).

When Poisson regression analysis was performed the association between the importance of religion to the responses provided and religiousness, and the opinion that the circumstances in which abortion is not considered a crime should be widened/decriminalize abortion was confirmed (Table 2).

The circumstances in which abortion should be considered lawful receiving the highest responses in favor were: risk to the mother's life (84%), anencephaly diagnosis (83.1%), severe fetal congenital malformation incompatible with life outside uterus (81.8%), pregnancy resulting from rape (80.6%), pregnancy poses severe danger to maternal physical health (59%), and when pregnancy poses severe danger to maternal mental health (41.9%). Only 4.7% of participants considered that abortion should never be considered a lawful practice (Data not shown on table).

In the bivariate analysis, it was found that variables concerning religion were associated to the opinion favoring lawfulness of abortion in all circumstances presented. The highest favorable opinion rates came from participants considered non-religious or of intermediary religiousness and from those whose personal

Table 2. Final Poisson regression model for opinion concerning possible changes to Brazilian abortion laws. Brazil, 2005-2006. (n = 2.804)

Opinion	PR	95% CI	p
Widen lawful abortion circumstances/Decriminalize			
Importance of religion:	1	-	-
Little/No importance/No religion	1.73	1.48;2.01	<0.001
Religiousness: Religious	1	-	-
Intermediary/Not religious	1.34	1.12;1.61	0.002

Table 3. Distribution of participants in favor of abortion in the selected circumstances, according to socio-demographic characteristics. Brazil, 2005-2006.

Variable	Risk to life			Anencephaly diagnosis			Severe congenital malformation			Pregnancy resulting from rape			
	n	%	p	n	%	p	n	%	p	n	%	p	n
Circumstances													
Age (years) ^a													
≤ 39	1301	92.1	<0.001	1220	86.4	<0.001	1197	84.8	<0.001	1204	85.3	<0.001	1412
40 to 49	834	87.6		813	85.4		804	84.5		794	83.4		952
≥ 50	1207	74.7		1274	78.9		1258	77.9		1209	74.9		1615
Gender													
Male	2344	83.5	0.153	2300	81.9	0.003	2271	80.9	0.017	2217	79.0	<0.001	2808
Female	1041	85.3		1046	85.7		1026	84.1		1030	84.4		1220
Marital status													
In partnership	2572	83.4	0.049	2544	82.5	0.083	2490	80.7	<0.002	2474	80.2	0.217	3084
Not in partnership	809	86.2		798	85.0		802	85.4		771	82.1		939
Number of children													
≤ 2	2424	86.9	<0.001	2374	85.2	<0.001	2335	83.8	<0.001	2325	83.4	<0.001	2788
≥ 3	940	77.4		952	78.4		940	77.4		902	74.2		1215
Unwanted pregnancy and abortion													
Never/Yes, but no abortion	2752	83.9	0.007	2699	82.3	<0.001	2658	81.1	<0.001	2623	80.0	<0.002	3279
Yes and had an abortion	402	88.9		410	90.7		399	88.3		391	86.5		452
Occupation													
Judge	1164	79.4	<0.001	1161	79.2	<0.001	1151	78.5	<0.001	1116	76.1	<0.001	1466
Prosecutor	2227	86.7		2191	85.3		2151	83.7		2138	83.2		2569
Geographical area													
N/NE/CW	1124	82.9	0.050	1113	82.1	0.177	1088	80.2	0.057	1083	79.9	0.234	1356
SE/S	2154	85.3		2116	83.8		2089	82.8		2057	81.5		2524
Work experience (years) ^a													
≤ 9	1169	90.5	<0.001	1121	86.8	<0.001	1092	84.5	0.003	1102	85.3	<0.001	1292
10 to 25	1649	84.1		1637	83.5		1610	82.1		1584	80.8		1961
≥ 26	227	74.2		238	77.8		237	77.5		234	76.5		306

To be continued

Table 3 continuation

Variable	Circumstances												
	Risk to life			Anencephaly diagnosis			Severe congenital malformation			Pregnancy resulting from rape			
	n	%	p	n	%	p	n	%	p	n	%	p	n
Jurisdiction													
Capital and inner state	1282	84.7	0.444	1271	83.9	0.301	1250	82.6	0.394	1242	82.0	0.097	1514
Inner state only	2102	83.7		2075	82.6		2045	81.4		2005	79.8		2511
Instance													
Appellate Court	473	80.4	0.011	474	80.6	0.092	462	78.6	0.025	474	80.6	>0.999	588
Trial Court	2880	84.7		2840	83.5		2806	82.5		2740	80.6		3400
Area of law													
Criminal/Specialized court	1716	86.7	<0.001	1669	84.3	0.045	1640	82.9	0.102	1633	82.5	0.003	1979
Other areas	1663	81.5		1671	81.9		1649	80.8		1608	78.8		2040
Level of court													
Federal and state court	251	81.8	0.281	253	82.4	0.783	247	80.5	0.562	254	82.7	0.375	307
State court only	3130	84.3		3090	83.2		3044	82.0		2989	80.5		3714
Religiousness													
Religious	336	67.2	<0.001	263	52.6	<0.001	256	51.2	<0.001	284	56.8	<0.001	500
Intermediary/Not religious	2849	87.5		2884	88.6		2842	87.3		2770	85.1		3256
Importance of religion													
Very important	545	66.1	<0.001	435	52.7	<0.001	418	50.7	<0.001	445	53.9	<0.001	825
Little/No importance/No religion	2680	89.3		2749	91.6		2720	90.6		2647	88.2		3001
Importance of religious views													
Very important	631	69.8	<0.001	524	58.0	<0.001	510	56.4	<0.001	541	59.8	<0.001	904
Little/No importance/No religious views	2500	89.2		2559	91.3		2531	90.3		2459	87.7		2804
Age (years)^a													
≤ 39	927	65.7	<0.001	625	44.3	<0.001	189	13.4	<0.001	35	2.5	<0.001	1412
40 to 49	630	66.2		452	47.5		158	16.6		33	3.5		952
≥ 50	790	48.9		585	36.2		132	8.2		118	7.3		1615
Gender													
Male	1583	56.4	<0.001	1127	40.1	<0.002	275	9.8	<0.001	124	4.4	0.286	2808
Female	795	65.2		560	45.9		212	17.4		64	5.2		1220

To be continued

Table 3 continuation

Variable	Circumstances												
	Risk to life			Anencephaly diagnosis			Severe congenital malformation			Pregnancy resulting from rape			
	n	%	p	n	%	p	n	%	p	n	%	p	n
Marital status													
In partnership	1770	57.4	<0.001	1239	40.2	<0.001	329	10.7	<0.001	144	4.7	0.979	3084
Not in partnership	606	64.5		445	47.4		158	16.8		43	4.6		939
Number of children													
≤2	1750	62.8	<0.001	1214	43.5	<0.002	388	13.9	<0.001	107	3.8	<0.001	2788
≥3	615	50.6		462	38.0		97	8.0		80	6.6		1215
Unwanted pregnancy and abortion													
Never/Yes, but no abortion	1888	57.6	<0.001	1294	39.5	<0.001	347	10.6	<0.001	154	4.7	0.038	279
Yes and had abortion	329	72.8		275	60.8		108	23.9		11	2.4		452
Occupation													
Judge	822	56.1	0.004	601	41.0	0.420	167	11.4	0.325	107	7.3	<0.001	1466
Prosecutor	1560	60.7		1088	42.4		321	12.5		81	3.2		2569
Geographical area													
N/NE/CW	751	55.4	<0.001	533	39.3	0.014	110	8.1	<0.001	63	4.6	>0.999	1356
SE/S	1562	61.9		1097	43.5		365	14.5		116	4.6		2524
Work experience (years) ^a													
≤9	831	64.3	<0.001	564	43.7	0.153	168	13.0	0.145	30	2.3	<0.001	1292
10 to 25	1196	61.0		858	43.8		255	13.0		82	4.2		1961
≥26	148	48.4		113	36.9		26	8.5		27	8.8		306
Jurisdiction													
Capital and inner state	955	63.1	<0.001	683	45.1	<0.002	229	15.1	<0.001	70	4.6	>0.999	1514
Inner state only	1420	56.6		1001	39.9		258	10.3		115	4.6		2511
Instance													
Appellate Court	340	57.8	0.541	246	41.8	>0.999	74	12.6	0.739	37	6.3	0.046	588
Trial Court	2015	59.3		1422	41.8		408	12.0		147	4.3		3400
Area of law													
Criminal/Specialized court	1210	61.1	0.008	848	42.8	0.218	225	11.4	0.181	68	3.4	<0.002	1979
Other areas	1162	57.0		834	40.9		261	12.8		118	5.8		2040

To be continued

Table 3 continuation

Variable	Risk to life						Anencephaly diagnosis						Severe congenital malformation						Pregnancy resulting from rape					
	n	%	p	n	%	p	n	%	p	n	%	p	n	%	p	n	%	p	n	%	p	n		
Level of court																								
Federal and state court	200	65.1	0.027	149	48.5	0.015	62	20.2	<0.001	19	6.2	0.215	307											
State court only	2173	58.5		1532	41.2		424	11.4		166	4.5		3714											
Religiousness																								
Religious	157	31.4	<0.001	85	17.0	<0.001	6	1.2	<0.001	92	18.4	<0.001	500											
Intermediary/Not religious	2101	64.5		1526	46.9		464	14.3		72	2.2		3256											
Importance of religion																								
Very important	251	30.4	<0.001	149	18.1	<0.001	11	1.3	<0.001	142	17.2	<0.001	825											
Little/No importance/No religion	2018	67.2		1470	49.0		458	15.3		31	1.0		3001											
Importance of religious views																								
Very important	324	35.8	<0.001	200	22.1	<0.001	31	3.4	<0.001	135	14.9	<0.001	904											
Little/No importance/No religious views	1881	67.1		1364	48.6		422	15.0		33	1.2		2804											

Pearson's chi-square or Pearson's chi-square corrected by Yates: 2x2 correction factor
 a Chi-square test for linear trend N: North, NE: Northeast, CW: Central-West, SE: Southeast, S: South

religious beliefs played no significant role. In the same way, a previous abortion experience and number of living children (up to two) at the time of the interview were associated to being in favor of abortion in the several circumstances presented. When linear trend test was applied for variables age and work experience, it was found that work experience in years was not associated to a favorable opinion in two circumstances concerning pregnancy posing severe risk to maternal mental health and in any circumstance. Age was associated to favorable opinion in all the circumstances presented: younger participants tended to be more in favor of abortion (Table 3).

In the multivariate analysis, the importance given to religion during response was confirmed to be associated to the opinion about decriminalizing abortion in all circumstances presented. Religiousness was only not associated to the opinion concerning abortion when the mother's life is at risk. A lot of importance attached to religion had a prevalence rate (PR) of 8.69 in relation to the opinion that abortion should never be considered lawful, and the classification of respondents as religious resulted in PR = 2.61. Age on the occasion of response was found to be associated to the opinion in favor of abortion in the event of risk to life of mother, severe damage to maternal physical health, and to decriminalizing abortion in all circumstances. Working in the state capital/inner state was associated to the opinion in favor of abortion in the event the pregnancy poses risk to maternal physical health, and to decriminalizing abortion in all circumstances.

Marital status was associated to the opinion in favor when the pregnancy poses severe risk to maternal mental health and to decriminalizing abortion in all circumstances. In addition, gender of respondents, geography, and instance of court were all associated to the opinion that abortion should be considered lawful in all circumstances. The occupation associated to the opinion that abortion should never be permitted was that of being a judge: PR = 1.84 (Table 4).

When asked about the ADPF, among those who already had an opinion on the issue (n = 2,223), 60.5% said the ADPF should become a Law, 25.1% said it was adequate, and 14.4% said it was inadequate. (Data not shown on table).

DISCUSSION

In the sample studied, it was possible to notice a trend in considering the need of changing current Brazilian abortion laws, be it to widen the number of situations in which abortion is considered legal and therefore doctors performing do not face punishment, or even to decriminalize abortion regardless of the circumstances in which it is performed. This trend has already been noticed in

Table 4. Poisson final regression models for opinions in favor of abortion in selected circumstances. Brazil, 2005-2006. (n=2.895)

Opinion	PR	95% CI	p
Risk to life			
Age (years)			
Higher	1	-	-
Lower	1.01	1.01;1.01	<0.001
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	1.21	1.11;1.32	<0.001
Anencephaly diagnosis			
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	1.57	1.37;1.80	<0.001
Religiousness			
Religious	1	-	-
Intermediary/Not religious	1.31	1.11;1.55	0.002
Severe congenital malformation			
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	1.59	1.38;1.82	<0.001
Religiousness			
Religious	1	-	-
Intermediary/Not religious	1.32	1.12;1.57	<0.002
Pregnancy resulting from rape			
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	1.45	1.27;1.66	<0.001
Religiousness			
Religious	1	-	-
Intermediary/Not religious	1.20	1.02;1.41	0.027
Severe harm to physical health			
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	1.79	1.51;2.13	<0.001
Age (years)			
Higher	1	-	-
Lower	1.01	1.01;1.01	<0.001
Religiousness			
Religious	1	-	-
Intermediary/Not religious	1.43	1.16;1.76	<0.002
Unwanted pregnancy and abortion			
Never/ Yes, but no abortion	1	-	-
Yes and had abortion	1.23	1.08;1.40	0.002
Jurisdiction			
Inner state only	1	-	-
Capital and inner state	1.10	1.01;1.22	0.048
Severe harm to mental health			
Importance of religion			
Very important	1	-	-
Little/No importance/No religion	2.15	1.73;2.69	<0.001

To be continued

Table 4 continuation

Opinion	PR	95% CI	p
Religiousness			
Religious	1	-	-
Intermediary/Not religious	1.77	1.33;2.34	<0.001
Unwanted pregnancy and abortion			
Never/ Yes but no abortion	1	-	-
Yes and had abortion	1.50	1.30;1.73	<0.001
Marital status			
In partnership	1	-	-
Not in partnership	1.17	1.03;1.32	0.015
In any circumstance			
Importance of religion			
Very	1	-	-
Little/No importance/No religion	5.82	2.84;11.95	<0.001
Religiousness			
Religious	1	-	-
Intermediary/Not religious	5.22	1.90;14.33	<0.002
Unwanted pregnancy			
Never/Yes, but no abortion	1	-	-
Yes and had abortion	2.01	1.57;2.58	<0.001
Geographical area			
N/NE/CW	1	-	-
SE/S	1.81	1.42;2.31	<0.001
Gender			
Male	1	-	-
Female	1.48	1.20;1.83	<0.001
Jurisdiction			
Inner state only	1	-	-
Capital and inner state	1.36	1.10;1.68	0.005
Marital status			
In partnership	1	-	-
Not in partnership	1.36	1.09;1.69	0.006
Age (years)			
Higher	1	-	-
Lower	1.01	1.01;1.02	0.010
Level of court			
State court only	1	-	-
Federal and state court	1.42	1.04;1.94	0.029
Under no circumstance			
Importance of religion			
Little/No importance/No religion	1	-	-
Very important	8.69	4.97;15.20	<0.001
Religiousness			
Intermediary/Not religious	1	-	-
Religious	2.61	1.65;4.13	<0.001
Occupation			
Prosecutor	1	-	-
Judge	1.84	1.24;2.74	0.003

studies with physicians, as well as in population-based surveys.^{7,11,12,13,19,e}

From the possible circumstances in which abortion should be considered lawful, the population sampled was found to favor widening the list of situations permitted by statute, and 12.1% of participants were found to be in favor of not punishing abortion at all. Another point to be highlighted, and which reinforces the trend in expressing the need of changing current abortion laws, is the favorable opinion participants have of the ADPF, which has been waiting for a Brazilian Supreme Court hearing since 2005.

As observed in other studies, this survey also found a high agreement rate with abortion in situations that are medically justified.^{7,12,13,20,e} Among the characteristics of participants that were found to be associated with a more favorable attitude towards changing abortion laws and in terms of accepting the several circumstances in which abortion should be considered lawful, are variables already pointed out in other studies, such as age, gender, place of residence, previous abortion, importance of religion and religiousness.^{15,f} It is worthy of attention the constant presence of these latter variables as possibly representing obstacles to changes to the law, and this has frequently been object of debate. The media and the many forums in which this debate takes places show that religious arguments are the major hurdles faced by moving forward with the discussion about Brazilian abortion laws. To this effect, the results of this study show that religion is an aspect that should not be neglected in discussing the need of widening the statutory circumstances in which abortion is not considered lawful. In line with this, findings show that statutory changes that include medically justified abortion practices would be better accepted by the professionals surveyed. A finding that suggests this is the fact that religion was not found to be associated to opinions in favor of abortion in the event of risk to the life of mother, which is understood as a medically justified reason for a lawful abortion. This is coherent with the prevailing arguments in the healthcare sector in the fight for a more extensive liberalization of abortion. And this has been the main strategy in current debates on the matter. Among Brazilian gynecologists, for instance, it

was found that abortion tended to be accepted whenever professionals found a moral justification to sacrifice a life (the fetus') in favor of another (the mother's), or because the fetus's life had a low expectancy rate (malformation of fetus).^f

On the other hand, as has been observed among gynecologists,¹² having experienced an abortion is rather significant in determining the opinion of the population sample toward abortion.

We understand that the findings herein do not apply to all judges and prosecutors members of their respective professional Association, since the response rate has been of 14% among judges and 20% among prosecutors. However, we can consider these response rates to be satisfactory if we consider the indirect method used and the known difficulties in obtaining responses through the postal services.² On the other hand, it is also possible that the response rate may be slightly higher because we do not know the exact number of individuals who actually received the questionnaire pack, due to possibly outdated address information.

It is impossible to determine whether the sample was biased in the sense that those who responded were individuals with a more liberal view on abortion. The high absolute number of responses, however, suggests that it is unlikely the main findings suffer significant changes with a higher response rate. Additionally, it is very unlikely that the associations between the characteristics of participants and their opinions were affected by a sample bias. Previous studies carried out with gynecologists and obstetricians,^{11,15} as well as population-based surveys with men and women,^{7,20} have arrived at similar results, that is, have identified the same trends identified in this study.

Regardless of the above-mentioned limitations, the findings resulting from this sample of court professionals in Brazil, can be considered a subsidy to continuously striving to promote debates on changing Brazilian abortion laws, especially because such findings reinforce the perspective that there is an acceptance rate for change, and also show the boundaries inside which change could actually take place.

^e Instituto Brasileiro de Opinião e Estatística. Comissão de Cidadania e Reprodução. Pesquisa de opinião pública sobre o aborto no Brasil.2003. [citado 2009 maio 6]. Disponível em: http://www.ccr.org.br/uploads/noticias/Aborto_no_Brasil.ppt

^f Centro de Pesquisas em Saúde Reprodutiva de Campinas - Cemicamp. O papel da religiosidade na perspectiva e no agir de médicos ginecologistas em relação ao aborto previsto por lei, à anticoncepção de emergência e ao DIU: relatório técnico narrativo final [internet]. Campinas; 2005 [citado 2008 jul 24]. Disponível em: http://www.cemicamp.org.br/relatorios/Relatorio_final.pdf.

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