REPRODUCTIVE HEALTH matters

FEATURE

Conscientious objection, barriers, and abortion in the case of rape: a study among physicians in Brazil

Debora Diniz,[a] Alberto Madeiro,[b] Cristião Rosas[c]

a Professor, Graduate Program in Social Policy, University of Brasilia (UnB)/Anis, Institute of Bioethics, Human Rights, and Gender, Brasilia, Brazil. *Correspondence*: anis@anis.org.br

b Professor, Research Center and Extension Program in Women's Health, Piauí State University (Uespi), Teresina, Brazil/Anis, Institute of Bioethics, Human Rights, and Gender, Brasilia, Brazil

c Physician, Sexual Violence Commission, Brazilian Federation of Obstetrics and Gynaecology (FEBRASGO), São Paulo, Brazil

Abstract: *In Brazil, to have a legal abortion in the case of rape, the woman's statement that rape has occurred is considered sufficient to guarantee the right to abortion. The aim of this study was to understand the practice and opinions about providing abortion in the case of rape among obstetricians-gynecologists (OBGYNs) in Brazil. A mixed-method study was conducted from April to July 2012 with 1,690 OBGYNs who responded to a structured, electronic, self-completed questionnaire. In the quantitative phase, 81.6% of the physicians required police reports or judicial authorization to guarantee the care requested. In-depth telephone interviews with 50 of these physicians showed that they frequently tested women's rape claim by making them repeat their story to several health professionals; 43.5% of these claimed conscientious objection when they were uncertain whether the woman was telling the truth. The moral environment of illegal abortion alters the purpose of listening to a patient – from providing care to passing judgement on her. The data suggest that women's access to legal abortion is being blocked by these barriers in spite of the law. We recommend that FEBRASGO and the Ministry of Health work together to clarify to physicians that a woman's statement that rape occurred should allow her to access a legal abortion.* © 2014 Reproductive Health Matters

Keywords: conscientious objection, abortion law and policy, barriers to abortion, rape, sexual violence, provider-patient relations, Brazil

The 1940 Brazilian Penal Code only authorizes abortion in case of rape or when a woman's life is at risk.[1] A decision of the Brazilian Supreme Court in 2012 made abortion legal also in the case of fetal anencephaly.[2] Despite the penal restrictions, the magnitude of clandestine abortions in the country is high. A national study with direct methods of collecting information conducted in 2010 revealed that 15% of women between the ages of 18 and 39 had had at least one abortion.[3]

Current regulations for abortion services were formulated in the 1990s; yet in 1996, there were only four public health care facilities providing access to legal abortions in the country.[4] In 1999, the Brazilian Ministry of Health released technical guidance on *Prevention and Treatment of Injuries Resulting from Sexual Violence against Women and Adolescents,* which stimulated the organization of new services. In 2001, 63 hospitals, in 24 of the 27 states in Brazil, were registered to provide abortions under this guidance. Nevertheless, the majority were concentrated in the state capitals and big cities, which constitutes a barrier to access in a country with continental proportions.[4,5]

Women's access to legal abortion services can be made difficult for several reasons: from the conscientious objection of health care professionals to the demand for additional medical exams, police documents, or judicial authorization, all of which we treat as "barriers". The imposition of barriers can cause harm to women mainly through the delay in providing health care.[6,7] In Brazil, the Health Ministry regulations exempt rape victims from having to submit a police report, expert medical opinion, or judicial authorization. The only required document for abortion in the case of rape is the signed consent of the woman.[8]

Similar to international guidelines, the Brazilian Code of Medical Ethics and the technical standards of the Health Ministry recognize the right of the physician to conscientious objection.[8,9] The moral basis for conscientious objection to abortion seems to be different in countries with a Catholic/Christian tradition, as in Brazil, where the law is restrictive and the abortion referral services are public and mainly available in large cities.[10] In this situation, the refusal to provide an abortion can be an additional barrier for women who have been raped.[6]

Studies of the knowledge and opinions of obstetrician-gynecologists about abortion in the beginning of the 2000s in Brazil did not investigate their concrete care practices in the abortion services. However, a study in 2003 among 4,323 obstetrician-gynecologists on the national regulations on abortion found that around two-thirds of the physicians believed judicial authorization was necessary to provide an abortion.[11] Similar findiings were obtained in another study among 572 obstetrician-gynecologists, of whom only 48% demonstrated adequate knowledge of the legal requirements for abortion.[12] As for public opinion, a recent study has shown that, although Brazilians diverge in relation to when abortion should be legal, most agree that women should not be imprisoned for such practice.[13]

Brazilian obstetrician-gynecologists are professionals with a central position in women's reproductive and sexual health care, as only physicians can perform abortions. International studies show that the main reason claimed by physicians for conscientious objection to abortion is religious convictions.[14,15] Few studies have analysed the reality of conscientious objection in Brazil. In 2012, a qualitative study with obstetrician-gynecologists from a referral service for legal abortion in Salvador, a city in the northeast of Brazil, showed that the fear of being prosecuted and the stigma of abortion were the principal reasons for physicians to refuse to provide an abortion.[16]

There are no national data on how these health professionals proceed morally when a female rape victim seeks an abortion. There is neither evidence about the barriers women face nor, most importantly, the impact of physicians' refusal to provide the service. This article describes the results of a national study that aimed to understand the opinions and practices of Brazilian obstetrician-gynecologists regarding abortion in the case of rape.

Methodology

A mixed-method study was conducted among physicians affiliated with the Brazilian Federation of Obstetrics and Gynaecology (FEBRASGO), the largest medical organization of obstetrics and gynaecology in the country. The study was conducted in two phases between April and July 2012 – first a quantitative phase using an electronic questionnaire, then a qualitative phase using in-depth telephone interviews.

In the first phase, the 15,000 members of FEBRASGO received an electronic invitation to participate, sent by FEBRASGO, and a convenience sample of respondents was obtained. A self-completed questionnaire was available at a web page for the three months between April and June 2012. Each month for three months a new invitation was sent out. The electronic survey was structured and anonymous and included questions about age, sex, residence, religion, time of practice, and history of experience providing care for women who had been victims of rape. Thereafter, the instrument had two questions about the documents that a woman must provide in order to access abortion services and about physician's conscientious objection. These two questions allowed multiple alternatives. A pre-test of the questionnaire was obtained in two stages with the participation of academic specialists and 35 obstetrician-gynecologists. The data from the pre-test were discarded.

In this quantitative phase, the data were tabulated in a Microsoft Excel 2007 spreadsheet for the descriptive analysis of sociodemographic information. Questions that allowed multiple answers were categorized with values: 0 (no) and 1 (yes), and the answers were tabulated (only the woman's account, only a police report, the woman's account + a police report, etc). The frequency and percentage of the answers were computed and those cited most frequently were shown in tables.

In the second phase, the physicians from the quantitative phase were invited to participate in qualitative, in-depth interviews and were asked to provide their email address and/or telephone number for later contact. Of the 582 physicians of the total 1,690 who indicated that they would be interested in continuing their participation, 50 were selected based on the criteria that they had previously provided abortion care for women who had been raped, were from different ages, (above and below 50 years of age), sexes and geographic regions (ten each from the five main