

BARRIERS TO ACCESSING LEGAL ABORTION IN BAHIA IN THE PERIOD OF THE COVID-19 PANDEMIC: 2020 AND 2021



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EXECUTIVE SUMMARY

Editorial

Termination of pregnancy in cases of rape and woman's risk of death has been allowed since 1940 in Brazil. However, only 49 years later the first legal abortion service was implemented in the city of São Paulo. In 2012, the Federal Supreme Court (STF) extended the right to terminate the pregnancy of anencephalic fetuses.

This scenario, already historically unfavorable and hostile for the fulfillment of a right of girls, women and people with a uterus, was aggravated by the COVID-19 pandemic affecting mainly low-income black women from municipalities farthest away from the capital, young people and adolescents.

One example occurred in the city of São Paulo, where the legal abortion service that operates at *Hospital Pérola Byington* (Pérola Byington Hospital), which is considered a national reference, was closed in the first months of the pandemic. The services only resumed after protests by women's movements and action by the *Defensoria Pública da União/SP* (Federal Public Defender's Office/SP). In addition to the obstacles arising from changes in service protocols as a response to the pandemic, the political barriers imposed by the government of Jair Bolsonaro and the advance of conservatism in the Legislative and Judiciary powers also contributed

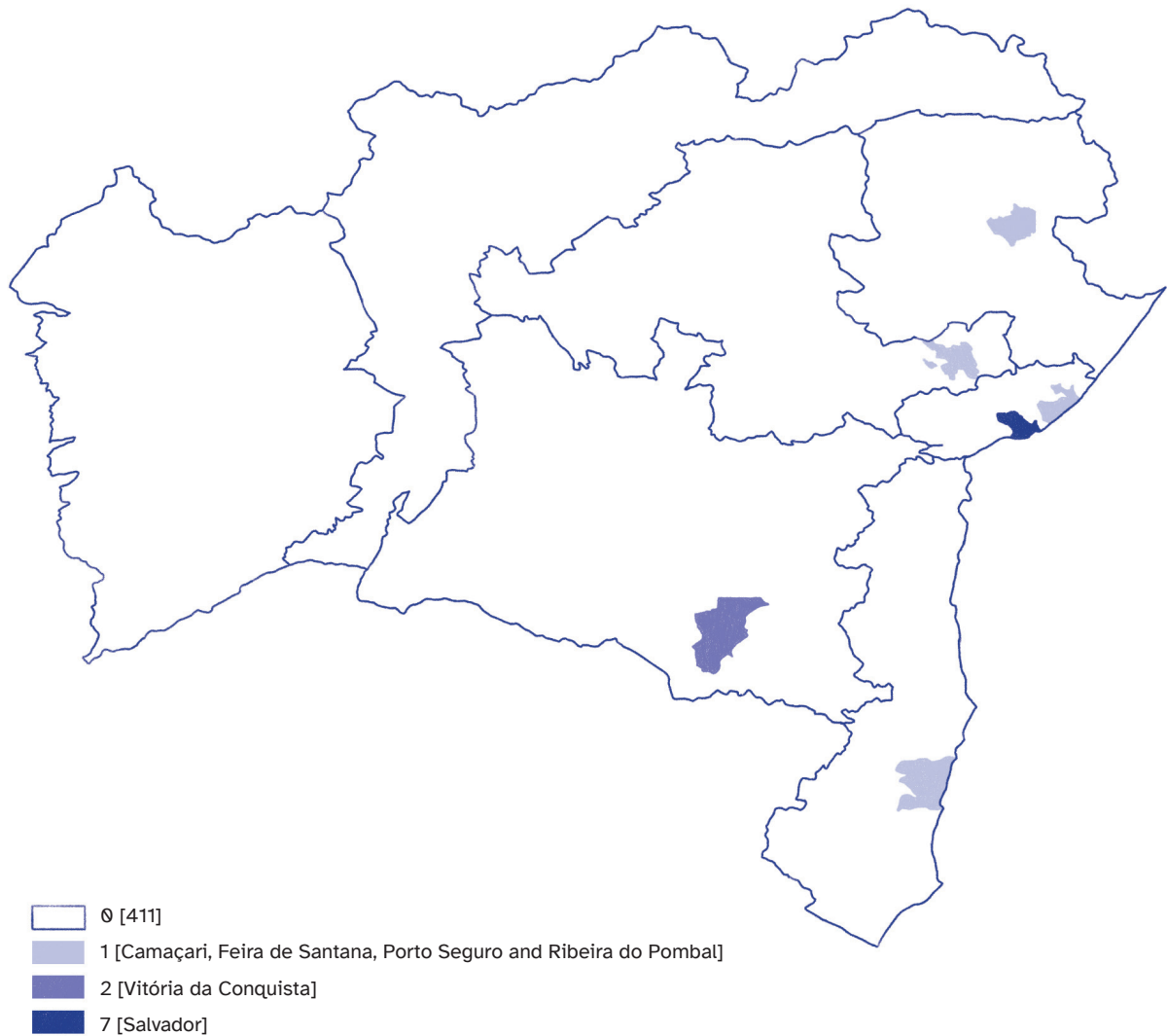
to hindering the access of girls, women and people with a uterus to legal abortion in Brazil.

In the Northeast of the country, access to termination of pregnancy provided by law ends up being more difficult, mainly to the limited offer of legal abortion services and the lack of qualified information on the subject.

According to data from 2018, made available by the Health Secretariat of State of Bahia (SESAB), the State had only 4 (four) legal abortion services in 2020, increasing to 13 (thirteen) in 2022. Despite the expansion of the service offer, large gaps in care persist in several regions of Bahia and discontinuous records of cases in the facilities that perform the service See map below.

In this context, the study "Barriers to Accessing Legal Abortion in Bahia in the Period of the COVID-19 Pandemic: 2020 and 2021" was developed, and carried out by the *Instituto de Saúde Coletiva (ISC) da Universidade Federal da Bahia (UFBA)* (the Institute of Collective Health of the Federal University of Bahia), Curumim Group - Pregnancy and Childbirth and Ipas Brazil. The research focused on the reality of three health facilities in Bahia that offer the legal services for termination of pregnancy.

Map of legal abortion services in Bahia – 2022



Studies involving barriers to accessing abortion cases envisaged by the law are still scarce in Brazil. In Bahia, few scientific studies on legal abortion were identified, most of which related to care for cases of sexual violence and women's experiences with unsafe abortions.

Thus, the research brings a character of novelty and important scientific support to assist in the improvement of the public service offered by health facilities in Bahia, ensuring more care and safety for girls, women and people with a uterus, seeking to contribute to fairer and more appropriate public policies, including those confronting sexual violence.

Inside the Survey

The study “Barriers to Accessing Legal Abortion in Bahia in the Period of the COVID-19 Pandemic: 2020 and 2021” was developed taking into account ethical aspects and respecting the free informed consent, confidentiality and anonymity of professionals and patients.

The research was approved by the Ethics Committee (CEP) of the Institute of Collective Health of the Federal University of Bahia (UFBA), opinion No. 5,189,400.

How was the study carried out?

The study was divided into two stages:

- Research in public domain information systems of the Ministry of Health, to analyze the records on legal abortion, in previous years (for comparative purposes) and in 2020 and 2021.
- Qualitative investigation carried out in three abortion care services provided by law.

Interviews

- In all, 17 health professionals from Medicine, Nursing, Psychology, Social Work and those responsible for the Management of the facilities were interviewed between February and June 2022.
- Two women, from two different services, agreed to give interviews. These were conducted between May and August 2022. Both women were raped, with one performing legal abortion in 2020, and the other in 2022.

Legal abortion in Bahia: the difficulties

There are a **small number of services** for legal abortion in Bahia. There are only 13 health facilities that perform the procedure in the State, most of which are located in the capital and in large urban centers, evidencing territorial barriers for girls, women and people with a uterus who need the service and live in the interior.

Lack of information is also a problem for those who need to perform legal abortion in the State. The research found that there is **little visibility of the services**, even within the hospitals/maternity hospitals that provide such services.

The **deficiency in the physical structure of hospitals**, which do not have specific places for people served by the service, often forced to share the same environment with women in labor is also pointed out as a negative point, especially for the assistance.

Regarding the **methods used** to terminate the pregnancy, the research concluded that curettage, that is, surgery to scrape the wall of the uterus, is still the most used procedure in the services studied to the detriment of manual vacuum aspiration (MVA) and medical abortion, recommended by the World Health Organization (WHO), as they are considered safer for girls, women and people with a uterus.

Still with regard to the process of termination of pregnancy, a practice that is contrary to the best scientific evidence and represents a barrier for people who need access to legal abortion services in Bahia is the establishment of **gestational age limits** for the termination of pregnancy. The current legislation, the Penal Code of 1940, does not establish a time limit for access to legal abortion for victims of sexual violence. The new World Health Organization Guide, released in

March 2022, recommends the elimination of the gestational age limit for abortion in health services under the argument of ensuring access for girls, women and people with a uterus who are in the second trimester of pregnancy and those living in remote areas.

Conscientious Objection (CO) is considered a barrier to accessing abortion provided by law, according to WHO. The research shows how conscientious objection manifests itself individually and institutionally at various stages during women's care. The discrediting of women's words when they report the situation of sexual violence in care, the invisibility of services in places where they should be available to the population, generating misinformation, in addition to the lack of regulation of CO in health facilities, demonstrate tacit agreements established between health teams and management that generate unnecessary barriers to legal abortion. Moreover, the lack of knowledge about the legislation and the right to legal

abortion by the majority of girls, women and people with a uterus who seek a referenced health facility for pregnancy termination, added to the refusal of professionals, are factors that contribute to hinder access to legal abortion.

Ethical and religious values and the **distrust of the professional regarding the patient's word** are among the main factors behind physicians' refusal to perform the procedure.

According to the research, the unfounded refusal to care, under the argument of conscientious objection by health professionals in legal abortion services, demonstrates unpreparedness, **insufficient training, lack of awareness and training on abortion care**, contributing not only to the permanence of access barriers to girls, women and people with a uterus in the exercise of a right, ensured by the State since 1940, but also implies unnecessary suffering in a time of great emotional fragility.



To be highlighted as advances

Team Differential

- Multidisciplinary team involving psychologists, social workers, doctors and nurses (in two health facilities), although nursing and medical professionals are in a more peripheral position than the other categories in assisting women;
- Understanding the right of girls, women and people with a uterus, and the importance of the existence of services to prevent unsafe abortions and unnecessary maternal deaths;
- Increasing internal legitimacy of the sexual violence and legal abortion care services in the facilities where they operate;
- Assistance by the psychosocial team to avoid discrimination of patients.

Disclosure of legal abortion services on the SESAB website

Creation of the State Forum on Legal Abortion of Bahia

What do the patients say?

Negative aspects:

- The sharing with pregnant women and babies, the conversations and comments made by the professionals about their cases, the discomfort with the ultrasound exam, listening to the fetal heartbeat, and ultrasound references in the visualization of the images produced by the “baby”. These situations constitute institutional violence;
- Lack of training of the wider hospital staff where the services are provided.

Positive aspects:

- Assistance by the psychosocial team.

Legal abortion in the pandemic: slower and less demand

The COVID-19 pandemic forced health facilities to establish new safety protocols for disease prevention and control. Many elective services were suspended, however, abortion care services provided by law, according to WHO recommendation, should be incorporated into the list of essential health services.

According to the professionals interviewed for the research, in Bahia, sexual violence and legal abortion care services were not paralyzed during the pandemic, but were affected, suffering impacts, mainly, in the suspension of educational activities involving families and companions of patients.

“Women lost the right to be accompanied. This was very controversial, then we managed to revert and understand that adolescents could not be without a companion; so, specifically, clients who were victims of violence and candidates for abortion and who had some important comorbidity, some difficulty of mobilization or some psychological damage and adolescent clients, especially those under sixteen, we allowed a companion” (Management).

The majority of cases assisted in the reference facilities are girls and women whose pregnancy resulted from sexual violence. Rape victims arrive in the facilities in periods longer than 72 hours, reducing the possibility of pregnancy prevention.

The reports of interviewees indicate more delay in care and need for adjustments caused by the reduction of the team due to illness, early retirement, arrival of new professionals in one of the investigated facilities and adaptations in the physical structure, which impacted the assistance of patients.

Health professionals also identified during the pandemic that women who needed judicial authorization for the termination of pregnancy, girls and adolescents who were victims of sexual violence arrived at services at later stages of pregnancy. The cases of rape against girls and teenagers also increased during this period.

What does the research recommend?

- 1. Ensure the right to abortion in the three cases envisaged by the law.** In a national context of setbacks in public health policies, it is urgent that, in addition to the repeal of the regressive measures established in the previous government, the law be fulfilled with the expansion of legal abortion services and consolidation of existing services.
- 2. Ensure quality care** for girls, women and people with a uterus through the defense, consolidation and modernization of the Single Health System (SUS), with the improvement of the use of telehealth in cases of follow-up of medical abortion.
- 3. Overcome prejudice and misinformation** about abortion. It is essential to encourage public debate on the subject, emphasizing the issue of abortion as a social and public health problem, within the perspective of reproductive rights and reproductive justice and not only linked to moral and religious values.
- 4. Promote permanent training for health professionals,** developed according to the specificities of each service, aiming at greater knowledge about legislation, public health policies, technical standards and greater awareness on the theme, gender, race and generational relations. This is fundamental to break stigmas and barriers of access within health facilities, and may reduce the conscientious objection of professionals. The research also recommends that professionals should be aware of the exercise of their role in healthcare provision, without judging or acting as police officers.
- 5. Disseminate widely the location of legal abortion services** to the population. The difficulty of access to information about legal abortion was found to be a serious problem for those who need the service. Therefore, a greater dissemination of the abortion service provided by law should be carried out, covering the internal public, employees of hospitals/maternity hospitals, and external – the public and private health network – considering the different levels of care, especially primary care, where the services are located, or where legal abortion can be performed.
- 6. Expand health teams,** through public tenders and not only by hiring service providers, whose contractual links are fragile and transient and make it difficult for trained teams to remain committed to legal abortion care. However, the study considers that the tenders should eliminate, as a criterion, professionals who present conscientious objection or refusal to care in hospitals/maternity hospitals where there are legal abortion services.
- 7. Finally, health services should maintain updated protocols and technical standards** in accordance with international guidelines such as those established by the World Health Organization (WHO).