

Voluntary and Compulsory Sterilization in Brazil and the Reproductive Rights of Women

Marina Nogueira Almeida

Centro Universitário Ritter dos Reis (UniRitter) Porto Alegre-Rio Grande do Sul, Brasil

Adalene Ferreira Figueiredo da Silva

Centro Universitário Ritter dos Reis (UniRitter) Porto Alegre-Rio Grande do Sul, Brasil

Abstract

Starting from the premise that the reproductive rights are accomplished by the human right to health, this article aims to study the female sterilization as a form of curtailment of the reproductive rights of women, considering the way it is regulated and implemented in Brazil. Therefore, this paper starts with a background of the reproductive rights from the feminist struggle to its insertion into the list of human rights. Then, the concept of reproductive rights is developed followed by a debate on feminism. In the second part, the article's principle objective of the dichotomy between sterilization as a voluntary and

compulsory measure is analyzed. In order to do so, there is a discussion of how the laws are challenged through looking at how it regulates female sterilization as well as how public sector (judges and prosecutors) legal professionals enforce the law. The Brazilian Family Planning Act and the 2018 São Paulo compulsory sterilization case are this article's grounds for analysis. The method is deductive and started from the legal doctrine of the act and the case. The conclusion is that the realization of the reproductive rights agenda debated in Brazil but that reproductive rights are not fully enjoyed by all of its citizens. Women cannot exercise full control over their bodies due to the requirement of their husband's consent and the eugenic action of the Public Prosecutor.

Keywords: reproductive rights, voluntary sterilization, compulsory sterilization.

1. Introduction

The discussion about human reproduction was historically attributed to the biological and health sciences. It wasn't until the mid-twentieth century that the female reproductive rights agenda found its voice. Subsequently, with the advance of the feminist struggle and the human rights of women, the reproductive health agenda was inserted in the human rights, under the name of 'reproductive rights' – which are commonly associated with the sexual rights.

The full enjoyment of the reproductive rights is a matter of health, as it is directly related to the «state of complete physical, mental and social well-being», as defined by the World Health Organization (1946). Furthermore, its development occurs within the public health policies. The delivery, or not, of the services related to the reproductive health, as the voluntary sterilization and the legal abortion, for example, happens or should happen within the scope of the Brazilian public health system, known as Unified Health System (Sus, the abbreviation from Portuguese).

The goal of this article is to understand the emergence of reproductive rights and its inclusion in human rights, also considering them as a matter of public health. The starting point is the historical background and the critical awareness of what reproductive rights have become. Having managed that, sterilization is brought to the core of the debate,

considering the current issues on that matter: the imposed restrictions to the voluntary sterilization present on the Brazilian Family Planning Act (Bill 9.263/1996) and the case of compulsory sterilization occurred in São Paulo, under the control and the decisions of the Judiciary (case number: 1001521-57.2017.8.26.0360). The method is deductive, with the analysis of the regulatory instruments of the reproductive rights from a feminist theoretical framework. From this point, the analysis of the specificities and the case is developed. The aim is to consider how Brazilian reproductive rights are enjoyed.

2. Reproductive Rights in a Historical, Critical Review

Women desire control over their reproductive rights, as Angela Davis brings in the history in «Women, Race, & Class» (2011) and Sônia Corrêa and Rosalind Petchesky, in the same way, report on the article «Direitos Sexuais e Reprodutivos, uma Perspectiva Feminista» (1996) (Sexual and Reproductive Rights: a Feminist Perspective, freely translated). These rights, however, only became a claim when they become the focus of the organized feminist movement, together with the protest against the abdication of women's names, properties and individual rights that happened when they married (Davis 2011). Women live in a condition of having their bodies externally controlled, as a male's private property (the body that gives sexual pleasure) and as inherited transmission of property (the body that creates children) (Jelin 1994).

The reproductive rights are born from the will of equal political participation between men and women, since the burden of maternity that is assigned almost exclusively to women, exclude them from the political life (Davis 2011). The idea was presented by Carole Pateman, in the article «Feminist critiques of the public/private dichotomy» (1990). The public/private dichotomy, in which the public is cultural (male) and the private is natural (female), keeps the woman away of the decision-making, and that impacts in her life since the personal is always political (Pateman 1990). The public life is associated with men because taking care of the house and the children were always designated to women:

Feminists have also drawn attention to – the fact that discussions of work life, whether by laissez-faire liberals or Marxists, always assume that it is possible to understand economic activity in abstraction from domestic life. It is ‘forgotten’ that the worker, invariably taken to be a man, can appear ready for work and concentrate on his work free from the everyday demands of providing food, washing and cleaning, and care of children, only because these tasks are performed unpaid by his wife. And if she is also a paid worker she works a further shift at these ‘natural’ activities. A complete analysis and explanation of the structure and operation of capitalism will be forthcoming only when the figure of the worker is accompanied by that of the housewife (Pateman 1990).

Pateman (1990) formulates her critique in the sense that it is impossible to dissociate the public from the private since the public decisions impact the private life. The political participation of women relies on public policies, as the state provision of the necessities that allow her to dedicate her time to the public sphere of life. Such public policies, in turn, are the result of political decisions, taken by men, to whom the concerns about maintaining the home and the private environment are distant. Legislation about social well-being can keep women subordinate. The law, nevertheless, is made by political subjects - men. Going further, Pateman summarizes:

At the immediately practical level, this demand is expressed in what is perhaps the most clear conclusion of feminist critiques; that if women are to participate fully, as equals, in social life, men have to share equally in child rearing and other domestic tasks. While women are identified with this private work their public status is always undermined (Pateman 1990).

The public/private dualistic perspective strengthen gender subordination since in the domestic environment, as well as in the public environment it is possible to observe the male dominance. The female work of reproduction and care sustains the structure of men performing public functions (Corrêa and Petchesky 1996). The feminist agenda about the division of domestic work is, nowadays, stronger. The discourse of the man as ‘helping’

at home seems to be gradually fought, although not yet surpassed. Nevertheless, the reality still shows an overload of domestic work and children care to women, what still represents disadvantage in the labor market. The distribution of domestic work is still in a way that the primary responsibility of the children belongs to the mother: if the child is sick, the school calls the mother; if the child cries, the mother has to give comfort and care. One of the main consequences is the continuity of the pay gap between men and women.

Women want to control their reproduction as a way to confront the rationale that imprisons women, under the argument that states that the nature of maternity is the reason to keep them away of the political action. The reproductive rights agenda begins by discussing abortion and contraception. Subsequently, it incorporates the issues related to contraception, safe motherhood and reproductive technologies (Davis 2011).

In the Convention on the Elimination of All Forms of Discrimination against Women (Cedaw), reproductive rights appear in this human rights document in Article 16, 'e', and determines, in the family relations, the States Parties must adopt measures in order for men and women to have «The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights» (United Nations 1979). From this document, the right to access contraceptive methods and other means of the free exercise of the reproductive autonomy arise, including information as to the woman to be able to choose the best suitable method. It also includes the right to the voluntary contraceptive sterilization and the prohibition of the involuntary or forced sterilization. In a broad interpretation, the polemic right to interrupt unwanted pregnancies could be included.

A possible feminist critique of the universalist equality proposed in the official documents of human rights is precisely discussed in this article. The redaction gives 'the same rights' to men and women, for the decisions of family planning. This way, it is possible to justify the mandatory consent of the husband for the use of contraceptive methods and, in countries where it is legal, for abortion, while, in fact, the women are the ones who get pregnant and, usually, the responsibility for the raising and education of the children is theirs (Corrêa and Petchesky 1996). Furthermore, the equality in the right to decide issues of family planning should reflect the equitable distribution of risks and benefits of the use

of contraceptive methods, when what happens nowadays is a responsibility almost exclusive of women for the contraception, in addition to a series of collateral effects that damage women's health due to use of contraceptives¹.

Acknowledging that women cannot be considered strange to the control of their own body is a fundamental step that can be interpreted regarding basic human rights, as seen before. It also means to recognize that the couple is asymmetrical and that men have had (and still have, a situation that must be reversed) more power to dictate their behavior and the couple's (Jelin 1994, 142)².

It was essential that reproductive rights were inserted in the form of family planning, in the human rights convention that is specifically about women, because it acknowledges the need for women to control over their bodies, treating women and men in an equal and formal way when it comes to fertility and the reproduction. However, it is a false equality because it does not consider the asymmetrical condition of man and woman in the private sphere.

In the International Conference on Population and Development of 1994 – Cairo Platform – the reproductive rights and health were formalized as principles, notably on principle n. 8, which address the physical and mental health. In this item, the right of care of reproductive health was expressly incorporated, including the right to family planning and sexual health (United Nations 1994). In the same document, the right of couples to decide the number of children and the spacing between them is formalized, together with the right to access the needed information to exercise this right, in the same shape the Cedaw already proposed that. The Fourth World Conference on Women that took place

¹ According to the Contraceptives Guideline of the Brazilian Federation of Gynecology and Obstetrics (Febrasgo), the main adverse effects that are observed as a consequence of contraceptives are nausea, irregular bleeding, cephalgia, breast tenderness, and acne. The significant risks are thrombosis, heart attack, and cerebrovascular accident. Besides, researches of male contraceptives have been postponed for having adverse effects very similar to the ones caused by female contraceptives, such as variation of the libido, propensity to develop depression, acne and mood swing. (Febrasgo 2015)

² Translated freely from «Reconhecer que as mulheres não podem ser consideradas estranhas ao controle do próprio corpo é um passo fundamental que pode ser interpretado em termos de direitos humanos básicos, como já foi visto. Significa também reconhecer que o casal é assimétrico e que os homens tiveram (e continuam tendo, situação esta que deve ser revertida) mais poder para ditar os próprios comportamentos e os do casal.»

in Beijing in 1995, devote more time to conceptualize the reproductive health and the reproductive rights, in the items 94 and 95 of its report:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. In line with the above definition of reproductive health, reproductive health care is defined as the constellation of methods, techniques and services that contribute to reproductive health and well-being by preventing and solving reproductive health problems. It also includes sexual health, the purpose of which is the enhancement of life and personal relations, and not merely counselling and care related to reproduction and sexually transmitted diseases (United Nations 1995).

Therefore, concerning international human rights law, reproductive rights are resulting from the acknowledgment of the fundamental individual right of control and autonomy of reproduction. They appear in the right of individuals and couples to decide in a free and responsible way to have or not to have children, how many children, and when to have them. Reproductive rights also include the right to make decisions about one's reproduction, without coercion, violence or discrimination. It is expressed by the right to have the most information possible about contraceptive methods and family planning. Finally, reproductive rights must be present in public policies about reproductive health³.

³ The sequence of the Beijing declaration, in item 95, establish what the reproductive rights are: «Bearing in mind the above definition, reproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest

It is in this sense that the reproductive rights are formally inserted in international human rights law. These determinations show that, more than simple protection of the human reproduction, the primary goal is to value the autonomy of women and couples. The protections mentioned are against the multiple forms of external interferences in family planning like public policies that forbid a certain number of children, or social-cultural coercion to have children.

About abortion, the Beijing declaration stresses that it cannot be promoted as family planning, but the governments and the non-governmental organizations must engage in fully assist women's health, especially to deal with the impacts of unsafe abortion as a public health issue. In this sense, where the abortion is permitted, it must be safe; where it is not, the health system shall be prepared to react to the complications that women may face due to the process. Moreover, the countries are recommended to review the criminal law when it criminalizes women that seek illegal abortions (United Nations 1995). Although it is not an expressed statement that the abortion should be legal in order to the full enjoyment of women's reproductive rights, it is a sign of progress in recognition of the issue as a public health matter specific to women's reality and condition⁴. Brazil subscribed without reservations both the Cairo and the Beijing declarations.

From a feminist standpoint, it can be highlighted that the text is no longer using Malthusian/neomalthusian ideas, but instead focuses on the individual – the woman – as an end in itself, and it integrates the principles of gender equality in the reproductive rights

on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. In the exercise of this right, they should take into account the needs of their living and future children and their responsibilities towards the community. The promotion of the responsible exercise of these rights for all people should be the fundamental basis for government- and community-supported policies and programs in the area of reproductive health, including family planning. As part of their commitment, full attention should be given to the promotion of mutually respectful and equitable gender relations and particularly to meeting the educational and service needs of adolescents to enable them to deal in a positive and responsible way with their sexuality» (United Nations 1995).

⁴ The wording in the documents that cover the reproductive and sexual rights were controversial, in a fundamentalist religious point-of-view. The Vatican City, for example, emphasized that the expression “couples and individuals”, in their view, should be read as married couples and the individuals – man e woman – that are inside this couples; Guatemala declared reservations to the full extent of the reproductive health and reproductive rights chapter; Egypt suggested that the word “individuals” should be taken off of the text since the aspects of the matter are only related to couples that are formally married (Petchesky 1997).

sphere, bringing female empowerment (Petchesky 1997). The document also recognizes that the violations of women's human rights are not perpetrated only by States and public agents, but there are potential violators in family members, partners, religious leaders and private agents (Petchesky 1997). Nonetheless, feminists could also point out some critical issues, as, for example, the fact that «nowhere in the platform do sexualize female bodies, claiming pleasures rather than fending off abuses, appear» (Ivi, 570).

It is possible to say that the human reproductive rights are «principles and norms of human rights that guarantee the individual, free and responsible enjoyment of the sexuality and the human reproduction»⁵ (Ventura 2009, 19). Another feminist critique is, however, the view of reproductive rights as merely individual rights. Ventura (2009) highlights the value of understanding reproductive rights as a merger of individual rights of autonomy and liberty and social rights of health and education.

Reproductive rights, as individual liberty of choice, are only a means to keep the inequalities of race, class, age and other social/cultural forms of discrimination. To be effective, reproductive rights must be understood as power – the power of making decisions and resources – the capability of accomplishing the decisions healthily and safely (Corrêa and Petchesky 1996). Most of the international human rights documents treat family planning as a 'free' and 'responsible' choice. The decision is not taken under equal opportunities, in a way that the conditions that lead women to decision-making must be considered, as their access to an efficient public health system and the public policies that address the children needs, like public transportation, sanitation and public education (*Ibidem*).

In contrast, the reproductive rights, like social rights, don't involve only the liberty of an individual, but also the social obligations of States, so public policies are essential to guarantee the rights being pursued (*Ibidem*; Petchesky 1997) asserts that it is useless for women to have reproductive rights if they cannot enjoy them due to a lack of public transportation, or the absence of health procedures, or the fear of religious fundamentalists. The social needs affect the enjoyment of reproductive rights directly. For a free

⁵ Translated freely from «princípios e normas de direitos humanos que garantem o exercício individual, livre e responsável da sexualidade e reprodução humana».

choice – without external pressure from the sociocultural and socioeconomic reality of the woman, it is fundamental to have assets such as information and infrastructure.

The woman's liberty and the power of making decisions on the issues of reproduction are direct implications of the public policies available. Aside from the social conditions to address the children's needs, or to access contraceptive methods, the population policies being developed by the governments – increase population or demographic control – must guide the choices and not impose reproduction strategies that disregard or overlook women's wishes and options (Jelin 1994).

Correa and Petchesky (1996) propose four bases to substantiate sexual and reproductive rights: corporal integrity, personal autonomy, equality, and diversity. Corporal integrity is related to the right of safety and the control over one's body, in a way that transcends any culture or society and considers the body an essential piece of one's composition, and therefore a necessary ground to the active participation in the community where the woman belong; personal autonomy is about the right to self-determination, making women capable of decision-making about her sexuality and reproduction – including, here, the choice of who should have an opinion on the subject; equality is in the man-woman relation as well as between women of different backgrounds; diversity is the acknowledgment of the differences between women.

From this theoretical framework about reproductive rights, this article proposes to discuss the Brazilian law on the matter, focusing on situations about sterilization. First, the Brazilian Family Planning Act is discussed because of the controversial need for a married woman to have her husband's consent to receive the voluntary sterilization. Then, a debatable process of compulsory sterilization, which happened in São Paulo in 2018, is discussed, since it was a direct violation of the reproductive rights presented in the international human rights law, which Brazil has signed. The objective is to stress how Brazilian legislative and judiciary both overlook women's reproductive rights.

3. Reproductive Rights and Sterilization in the Brazilian Context

In Brazil, reproductive rights are not listed explicitly as fundamental guarantees of the citizens in the Federal Constitution of 1988, but some other fundamental rights can be

related to the matter. As examples, the Constitution includes the equality between men and women⁶, the inviolability of the intimacy and privacy⁷ – which relate to the equality need in a couple in the decision making and the protection of the couple's or the individual's decisions on their reproduction. When discussing families, the Constitution states that man and woman are equal in the rights and obligations of the marriage and the children⁸ (Brasil 1988).

The Brazilian Family Planning Act, Federal Bill n. 9.263, enacted on January 12th, 1996, is controversial in its art. 10, 5th par. This provision states that voluntary sterilization is only allowed in a conjugal society if there is express consent of both partners (Brasil 1996). This regulation is challenged by two direct actions of unconstitutionality⁹ (Adi, from the Portuguese), handled by the Brazilian Supreme Court (Stf). The first is Adi n. 5.097, presented by the National Association of Public Advocates (Anadep), claiming the unconstitutionality because it violates, in theory, the human dignity¹⁰, the mentioned equality between men and women, and the right to family planning¹¹, all rights from the Federal Constitution. Anadep advocates that the concept of the family the society has now is far from the reproductive aspect only, and it is about people that are emotionally connected; therefore, considering that family and reproduction are not necessarily linked, this norm would only restrict liberty, equality, and dignity (Notícias Stf 2014). The second claim is Adi 5911, filed by the Brazilian Socialist Party (Psb), based on the same constitutional norms of the first one. The party argues that the requirements outrage fundamental rights and international treaties. The norm is blocking the implementation of the family planning policies. Psb still states that the necessary consent of the partner can damage the physical and psychological health, the dignity and the sexual rights of the people under the law (Notícias Stf 2018). Both processes are waiting for the Court decision and the full act is still in force until now.

⁶ Art. 5th, I, Brazilian Federal Constitution.

⁷ Art. 5th, X, Brazilian Federal Constitution.

⁸ Art. 226, 5th par., Brazilian Federal Constitution.

⁹ Adi is the Brazilian legal process used to challenge national and state acts or bills against the Constitution.

¹⁰ Art. 1st, III, Brazilian Federal Constitution.

¹¹ Art. 226, 7th par., Brazilian Federal Constitution.

The violation of the reproductive rights is present since it restricts a person's decision about their body. Considering that women are the ones who get pregnant and also considering the unequal power between man and woman because of gender, this requirement places an extra burden on women. The feminist movement, in the reproductive rights issues, is about only the woman having control over her body, in front of society, institutions and even partners. When the consent of someone else is demanded, rather than only the person to go under the procedure, the woman loses part of the control she has once gained. In that sense, it is essential to consider that reproductive rights are about autonomy, as brought in the theoretical framework. It is never possible to achieve either of these features if the permission for the procedures relies on someone rather than the individual.

The same country that imposes, by its law, restrictions to voluntary sterilization, taking away women control over her body, acted, through Brazilian judiciary officials, to force a woman to be sterilized, for eugenic reasons. It is another sign of the way Brazil withdraws the decision of the person under the law.

The case of Jaq¹², 36 years-old, mother of 7 children, arrested due to drug trafficking, was in the spotlight in June 2018, because she was forced through a sterilization procedure against her will and with the approval of the Judiciary. Jaq was drug addicted and homeless. The lawsuit n. 1001521-57.2017.8.26.0360 that ended up with her sterilization was initiated by a public prosecutor of São Paulo Public Prosecution's Office (Mpsp), in the 'Public Civil Action' (Acp)¹³ category. This case appeared in the news all over the country, causing the debate about if and how the government, through its agents, can decide if some women should or should not be able to breed (Vieira 2018).

The sterilization was required and accepted by a 'public civil action', which was already a way to curtail Jaq's rights since it was a procedure to protect interests that affect all community or society, not the case. In the initial petition, the public prosecutor requires the realization of sterilization under the argument that this woman, due to her addiction and social vulnerability, has an unruly life and, therefore, can have «new pregnancies,

¹² The name was abbreviated for ethical reasons.

¹³ Public Civil Action, in Brazil, is a category of lawsuit moved by the public prosecutors to protect collective interests, such as environment and public assets.

increasing her number of children in an irresponsible and unplanned way» (Tjsp 2017, 5) and that she «does not show discernment to evaluate the consequences of a new pregnancy» (Tjsp 2017, 5). The choice of a public civil action to require Jaq sterilization was not justified, and the fecundity control of a woman does not risk the society in a way that this kind of lawsuit would be reasonable. Thus, the decision to file a process with this features is disrespectful to the female body by making it ‘collective matter’ and, therefore, susceptible to state intervention.

It is very important to critique the fact that the prosecutor did not file any lawsuit in order to improve Jaq’s life conditions, to take her away of the streets and to enhance her human dignity. It seems that the problem was not her social vulnerability or the lack of social welfare, but how the fact of a poor woman having children disturbs the community that is not in the same vulnerable situation.

The prosecutor reported in the initial petition that the defendant manifested a willingness to have the sterilization, but it is also informed that she did not follow the therapies proposed by health facility. This situation of not following the proposed treatment was interpreted by the judiciary as withdrawal of the contraceptives and as the lack of discernment, declaring her legal incapacity – in order to have her sterilization without her consent, according to the Family Planning Act. The legal reasoning is the right to life, the right to health and the right to family planning. The prosecutor argues that the legal approval of the sterilization methods would permit what he requires in the initial petition – forced sterilization. The prosecutor’s initial petition is explicit to demand that the sterilization of Jaq should occur even if she does not want to be submitted to the procedure.

The sentence is first concerned to formal issues, as to decree that it was a judgment by default – even in a case where the defendant was a homeless person and the public defender was not notified of the case. The judge agreed with the public prosecutor, based on the right to health, and the case was judged for the forced sterilization, in a four-page sentence. When the court of appeals reversed the decision, the sterilization was already realized when she gave birth to her last child (Vieira 2018).

The reporting judge of the court of appeals argued that the Family Planning Act does not allow the use of any of the methods of sterilization for demographic control. The decision points out that the requirements of the prosecutor, approved by the first-degree

judge, is eugenic and can be considered unconstitutional in the same way of castration of people with disabilities or criminals.

Despite the appeal decision, that is constitutional and also considers the human rights law in question, the reality of the victim was ignored, since she had already been forced-sterilized when the appeal was judged, and the procedure is irreversible. The decision did not mention that and any form of reparation, so it is innocuous to point out the flaws and misjudgments without looking at the situation that the woman is facing.

The requirement of the public prosecutor, approved by the first-degree judge, affront the reproductive rights of Jaq, since it is a state agent deciding for the continuity, or not, of a woman's capacity to reproduction, taking away entirely her autonomy. The prosecutor utilized an argument to prove that the sterilization would be the only way to protect the life of this woman and her children, considering not necessary the life of any future children, by the reasoning of her addiction and turbulent life. The fact these arguments only exposed the moral values which were the basis of the lawsuit. At the same time, the country criminalizes abortion and sues poor women, showing that the juridical and political concern is the control over the female body – especially the marginalized ones. Besides, the judiciary comes out as anti-democratic, authoritarian and moralist, hoping to control the people to follow the behavior considered standard by the elites.

Any justification – alcohol, drugs, more children, poverty, and homelessness – is capable of authorizing a permanent procedure of extinction of the reproductive capacity of a human being against one's will because it violates human rights. What happened is a violation of the individual human rights since it is the state intervening in the citizen's life, where it should abstain of acting. It is possible to see the lack of coherence of the Brazilian state, allowing, tolerating and accepting a woman living on the streets without dignity but forcing her to be sterilized.

4. Concluding Remarks

The objective of this article was to briefly demonstrate the trajectory of reproductive rights as human rights and the inclusion in women's human rights. The feminist critique

to reproductive rights is vital for the development of this study in a way that understanding the reproductive rights under the equality between men and women cannot express the gender inequalities that happen in real life. Therefore, if we understand reproductive rights as individual liberty, and not as fundamental right depending on other social rights, the view of these rights are limited and does not include the issues of gender, race and socioeconomic class – critical social influences on reproduction.

Concerning sterilization, the debate is about the permissions and prohibitions. At the same time, the Brazilian Family Planning Act demands consent of both partners to execute the procedure for married people and the Public Prosecution Office exposes a situation in which is required and authorized, the sterilization without consent. In this specific case of forced sterilization, the judiciary, using legal norms to justify and fundament decisions interfering in a woman's body, testify its social selectivity by establishing which bodies can have sexual relations and procreate freely. In both cases – the Family Planning Act demands and Jaq's lawsuit – we have the same reality: the women cannot have the complete control over their own bodies.

Even considering that the reproductive rights discourse is far from the social reality of many marginalized women, it does not mean that they are not seeking to have a healthy and pleasant sexual and reproductive life, or that they do not use means that consider suitable to have a better life for themselves and their children. The reproductive rights agenda is included in the speech of feminists and, those who do not know or understand the women's human right's debate also have the sense of justice and act to protect their own reproduction and sexuality.

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