



## Article

# The procedural path for guaranteeing access to legal abortion and reproductive justice: the case of the Public Defender's Office of the State of Rio de Janeiro

A via processual para a garantia do acesso ao aborto legal e justiça reprodutiva: o caso da Defensoria Pública do Estado do Rio de Janeiro

La vía procesal para garantizar el acceso al aborto legal y la justicia reproductiva: el caso de la Defensoría Pública del Estado de Rio de Janeiro

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## Abstract

**Objective:** To analyze how the Public Defender's Office of the State of Rio de Janeiro has contributed, through public advocacy and the use of procedural paths, to overcoming barriers and implementing public health policies to guarantee access to legal abortion. **Methodology:** The method adopted was a case study, using documentary and oral sources. Internal documents regarding access to legal abortion, shared by the Public Defender's Office of the State of Rio de Janeiro, were compiled, and interviews were conducted with professionals who worked in the Public Defender's Office during the last five years, involved in receiving and referring requests for access to legal abortion, regardless of whether they were public defenders or from other professional categories, without exclusion criteria based on sex, age, race, or other factors. The interviews were conducted between 2024 and 2025. **Results:** Through the incorporation of international human rights standards into its practice, the Public Defender's Office of the State of Rio de Janeiro works to expand access to legal abortion as a mechanism for defending, promoting, and guaranteeing human rights. Its actions include good practices that reduce barriers and fill gaps in access to legal abortion. The institution works with health services, the Judiciary, the Ministry of Health, and State Health Departments, in partnership with other public bodies, in monitoring the implementation of public policies and in following up on individual cases. **Conclusion:** The incorporation of human rights standards into laws, public policies, and protocols, along with the use of procedural avenues by the Public Defender's Office of the State of Rio de Janeiro, presents itself as an innovative alternative to guarantee access to legal abortion while decriminalization is not yet achieved. The institution's action through public advocacy is strategic in

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shifting the focus from a punitive and stigmatizing logic regarding abortion to achieving reproductive justice and equity in healthcare.

**Keywords:** Abortion; Sexual and Reproductive Rights; Public Defender's Office; Human rights.

## Resumo

**Objetivo:** analisar como a Defensoria Pública do Estado do Rio de Janeiro tem contribuído, através da advocacia pública e do uso da via processual, para o enfrentamento de barreiras e implementação de políticas públicas de saúde para a garantia do acesso ao aborto legal previsto em lei. **Metodologia:** o método adotado foi o de estudo de caso, utilizando fontes documentais e orais. Foram compilados documentos internos sobre o acesso ao aborto legal, compartilhados pela Defensoria Pública do Estado do Rio de Janeiro e realizadas entrevistas com profissionais que atuaram durante os últimos cinco anos na defensoria, envolvidos no acolhimento e encaminhamento das demandas de acesso ao aborto legal, independentemente de serem defensores públicos ou de outras categorias profissionais, sem critérios de exclusão por sexo, idade, raça ou outros. As entrevistas foram realizadas entre 2024 e 2025.

**Resultados:** por meio da incorporação de estândares internacionais de direitos humanos na sua prática, a Defensoria Pública do Estado do Rio de Janeiro atua para ampliar o acesso ao aborto legal como mecanismo de defesa, promoção e garantia de direitos humanos. A sua atuação inclui boas práticas que reduzem barreiras e preenchem lacunas no acesso ao aborto legal. A instituição atua junto aos serviços de saúde, Poder Judiciário, Ministério da Saúde e Secretarias Estaduais de Saúde, em parceria com outros órgãos públicos, no monitoramento da implementação de políticas públicas e no acompanhamento de casos individuais. **Conclusão:** A incorporação de estândares de direitos humanos em leis, políticas públicas, protocolos e o uso dos caminhos processuais pela Defensoria Pública do Estado do Rio de Janeiro se apresentam como alternativas inovadoras para garantir o acesso ao aborto legal, enquanto não é alcançada a descriminalização. A atuação da instituição através da advocacia pública é estratégica para deslocar o foco da lógica punitiva e estigmatizante em relação ao aborto para o alcance da justiça reprodutiva e equidade na assistência em saúde.

**Palavras-chave:** Aborto; Direitos Sexuais e Reprodutivos; Defensoria Pública; Direitos Humanos.

## Resumen

**Objetivo:** Analizar cómo la Defensoría Pública del Estado de Río de Janeiro ha contribuido, mediante la incidencia pública y el uso de la vía procesal, para la superación de barreras e implementación de políticas de salud pública para garantizar el acceso al aborto legal. **Metodología:** El método adoptado fue un estudio de caso, utilizando fuentes documentales y orales. Se recopilaron documentos internos sobre el acceso al aborto legal, compartidos por la Defensoría Pública del Estado de Río de Janeiro, y se entrevistaron a profesionales que trabajaron en la Defensoría Pública durante los últimos cinco años, involucrados en la recepción y derivación de solicitudes de acceso al aborto legal, independientemente de si eran defensores públicos o de otras categorías profesionales, sin criterios de exclusión por sexo, edad, raza u otros factores. Las entrevistas se realizaron entre 2024 y 2025. **Resultados:** Mediante la incorporación de los estândares internacionales de derechos humanos en su práctica, la Defensoría Pública del Estado de Río de Janeiro trabaja para ampliar el acceso al aborto legal como mecanismo para la defensa, promoción y garantía de los derechos humanos. Sus acciones incluyen buenas prácticas que reducen las barreras y cubren las brechas en el acceso al aborto legal. La institución trabaja con los servicios de salud, el Poder Judicial, el Ministerio de Salud y las Secretarías de Salud Estatales, en colaboración con otros organismos públicos, en el monitoreo de la implementación de políticas públicas y el seguimiento de casos individuales. **Conclusión:** La incorporación de estândares de derechos humanos en leyes, políticas públicas y protocolos, junto con el uso de vías procesales por parte de la Defensoría Pública del Estado de Río de Janeiro, se presenta como una alternativa innovadora para garantizar el acceso al aborto legal mientras aún no se logra la despenalización. La acción de la institución a través de la incidencia pública es estratégica para cambiar el enfoque de una

lógica punitiva y estigmatizadora respecto al aborto hacia la consecución de la justicia reproductiva y la equidad en la atención médica.

**Palabras clave:** Aborto; Derechos Sexuales y Reproductivos; Defensoría Pública; Derechos Humanos.

## Introduction

In recent decades, courts in Latin American countries have affirmed women's sexual and reproductive rights, rejecting the application of criminal law against individuals who choose to undergo an abortion. In practice, the region has undergone processes of reforming abortion laws, through legislative or judicial channels, whether to expand access or decriminalize the procedure<sup>(1)</sup>. These changes are in line with the global paradigm that positions the decriminalization of abortion as a human rights imperative<sup>(2)</sup>.

The World Health Organization (WHO) Guide on Abortion Care incorporates the human rights standards established by the bodies that oversee and monitor the implementation of international human rights treaties by nation-states<sup>(3)</sup>. These standards are particularly important for providing interpretive guidance in areas where human rights remain unprotected, such as access to safe abortion.

In contexts where access to safe abortion is limited, women, girls, and people capable of pregnancy have less access to contraceptive methods, information, and emergency contraception to prevent unwanted pregnancies. The criminalization of abortion is a barrier to achieving reproductive justice and comprehensive health care, and it normalizes forced pregnancy as a fate, denying people's autonomy to decide about their bodies and their life plans<sup>(4)</sup>.

On the other hand, repressive and punitive views still persist. Governments have used criminal law to punish individual behaviors considered socially deviant, such as in the case of those who perform abortions or, in certain situations, even those who seek health services to treat complications resulting from abortion (incomplete, complicated, or retained)<sup>(5)</sup>. This practice perpetuates prejudice and social stigma surrounding the issue. Stigma, in turn, sustains legal restrictions on abortion and limits women's exercise of reproductive autonomy<sup>(6)</sup>.

In Brazil, the 1940 Penal Code, in Articles 124 through 127, criminalizes induced and voluntary abortion<sup>(7)</sup>. However, Article 128 provides that: "Abortion performed by a physician shall not be punished: I. if there is no other means of saving the pregnant woman's life; II. if the pregnancy results from rape and the abortion is preceded by the consent of the pregnant woman, or, if she is incapacitated, by her legal representative."

In 2012, during the adjudication of the Motion for Non-Compliance with a Fundamental Precept (ADPF) 54, the Federal Supreme Court (STF) ruled that the legal termination of pregnancy is constitutional in cases where fetal anencephaly is proven<sup>(8)</sup>. In 2017, the STF was again called upon to rule on the issue of abortion in ADPF 442, which proposed the decriminalization of abortion up to the 12th week of pregnancy<sup>(9)</sup>. The case has not yet been concluded; however, in 2023, STF Justice Rosa Weber, in presenting her opinion on the aforementioned ADPF, advocated for the establishment of a system of reproductive social justice, providing a relevant foundation for a new legal framework as an alternative to the criminal laws that criminalize abortion<sup>(10)</sup>.

With the aim of addressing the "unconstitutional state of affairs" regarding access to abortion as provided by law, ADPF 989 was filed with the STF, challenging institutional barriers and demanding universal access to the procedure through the Unified Health System (SUS). Beyond legal issues,

Brazil still faces barriers to universal access to abortion as provided by law within the Unified Health System (SUS), including the insufficiency of services available throughout the national territory<sup>(11)</sup>.

Added to these geographical barriers are institutional and professional ones, such as the requirement for documents not provided for by law police reports or judicial authorization, for example — as well as the refusal of some professionals to provide care, offer information, and/or refer patients to specialized services where pregnancy termination can be obtained<sup>(12)</sup>. Socioeconomic barriers also hinder access to abortion services, as without state support, many people must bear the costs of travel between municipalities, rest for recovery, and time off work on their own<sup>(13)</sup>.

The restriction imposed by criminal abortion laws does not eliminate the practice, as voluntary termination of pregnancy is a common occurrence in the reproductive lives of women, girls, and people capable of pregnancy. According to the National Abortion Survey, 10% of Brazilian women aged 18 to 39 living in urban areas have had at least one abortion, demonstrating that it is a reproductive health necessity<sup>(14)</sup>.

One of the most significant consequences of laws criminalizing abortion is that many people resort to unsafe abortions, increasing risks to their lives and health, and negatively impacting the quality of medical care<sup>(15)</sup>. In Brazil, for decades, unsafe abortion has been among the leading preventable causes of death among women and girls, alongside hypertensive disorders, hemorrhages, and infections<sup>(16)</sup>.

The harmful consequences of criminalization and the stigma surrounding abortion disproportionately affect different population groups, driven by intersectional discrimination, and reveal the lack of reproductive justice in the country. Barriers to accessing abortion health services and care are particularly severe for girls, adolescents, and young women; Black women; residents of urban peripheries, rural areas, and riverside communities; Indigenous people; and people living in poverty, in general<sup>(17)</sup>. In 2018, 65% of maternal deaths due to abortion occurred among Black and Brown women<sup>(18)</sup>.

Studies on the impact of abortion criminalization on the justice system, though still in their early stages, reveal that women and girls belonging to vulnerable and racialized socioeconomic groups are the primary targets of investigations and convictions<sup>(19)</sup>.

Comments by judges and prosecutors in courtrooms and judicial decisions highlight that the stigma surrounding abortion and prejudice against women who undergo it undermine women's right to a fair trial. This not only reflects but also contributes to “the marginalization, stigmatization, and vulnerability of certain groups of women, including those who would otherwise be entitled to legal abortion”<sup>(20)</sup>.

In this sense, gaps in laws and public policies contribute to healthcare practices that exacerbate inequalities affecting access to healthcare and reproductive experiences, especially for people with the capacity to gestate who are marginalized and who suffer most from intersectional oppressions<sup>(21)</sup>.

In the absence of an adequate normative and regulatory response to guarantee access to legal abortion, in the face of criminal law that criminalizes and stigmatizes the practice, state public defender's offices can serve as human rights mechanisms for guaranteeing, promoting, legally defending, and monitoring public policies in support of reproductive justice. These institutions have, in fact, distinguished themselves in the defense and promotion of the right to legal abortion through their participation in public and legal debates<sup>(22,23)</sup>.

The Public Defender's Office of the State of Rio de Janeiro (DPRJ) is a prime example. For over a decade, the institution has addressed individual cases and promoted collective strategies to ensure access to abortion as provided by law for women, girls, and other people capable of pregnancy, both through extrajudicial and judicial channels<sup>(24)</sup>.

This article presents partial results of a study on the work of this institution regarding the issue of legal abortion. The objective is to analyze how the Rio de Janeiro Public Defender's Office (DPRJ) has contributed, whether through public advocacy and the use of procedural path, to overcoming barriers and implementing public health policies aimed at expanding and guaranteeing access to abortion as provided by law, in accordance with international human rights standards.

## Methodology

The method adopted was the case study. The case study can offer a comprehensive understanding of the challenges, barriers, and gaps existing in a given health policy and the processes of constructing implementation strategies<sup>(25)</sup>. Furthermore, the method allows for the analysis of complex contemporary social phenomena where the aim is to provide a detailed description of an institution's work in a specific area of activity<sup>(26)</sup>.

The research utilized documentary and oral sources. Internal documents on access to legal abortion, shared by the DPRJ, were compiled. To access the database of cases handled by the DPRJ, an official letter was sent to the DPRJ's Data Protection Officer (EPD) containing information about the research, its objectives, and methodology, requesting authorization to use data from the database, known as the Green System. The Green System includes the entire judicial and extrajudicial history of each person assisted by the institution and ensures the standardization of official letters issued by the centers, making it possible to locate the date of case distribution. The EPD, based on Law No. 13,709/2018 (General Data Protection Law) and other applicable regulatory standards, including those issued by the National Data Protection Authority (ANPD), issued an opinion on April 13, 2023, authorizing access to documents related to cases handled by the DPRJ, included in the Green System. On September 18, 2025, the DPRJ issued a Declaration of Consent for Research, reiterating the prior authorization granted by the EPD and the Coordination for the Defense of Women's Rights, Opinion No. 22/2024/EPD/DPGERJ of July 16, 2024, and to conduct interviews with public defenders and other professionals working at the Public Defender's Office within the scope of the research.

For the interviews, the selection criteria were established as professionals who, over the past five years, have worked at the DPRJ and were involved in some way in receiving and referring requests for access to legal abortion, regardless of whether they were public defenders or belonged to other professional categories, with no exclusion criteria based on sex, age, race, or other factors. A script was used that included questions on: i) the institution's structure for receiving requests for legal abortion; ii) the existence of internal discussion of the cases handled; iii) internal workflow; iv) the profile of the requesters; v) landmark cases; vi) the interviewees' level of knowledge regarding Ministry of Health regulations and legal abortion; vii) training initiatives on sexual and reproductive rights; and viii) inter-institutional coordination for the implementation of public policies regarding legal arguments and legal arguments used by the agency in the legal defense of access to abortion in cases referred to the health and justice systems. The interviews were conducted between 2024 and 2025.

Seven professionals were interviewed, all women, ranging in age from 38 to 69. Six are public defenders and one is a journalist. Two identify as mixed-race, one as Black, and three as White. Of the seven interviewees, four said they had no defined religion and three are non-practicing Catholics. The interviewees work or have worked in different departments of the DPRJ: four in the Special Unit for Women's Rights (NUDEM), one in the Coordination for the Defense of Women's Rights (COMULHER), one in the Health Coordination (COSAU), and one in the Human Rights Defense Unit (NUDEDH).

The data used in the article were anonymized to ensure privacy and confidentiality. The research project was approved by the IFF/Fiocruz Ethics and Research Committee, under CAAE 84209424.0.0000.5269.

## Results and Discussion

### *Addressing demands for legal abortion from a human rights perspective: structuring and institutionalizing a practice*

The DPRJ's work in the field of sexual and reproductive rights — and, in particular, regarding demands related to access to legal abortion — began to take shape in the mid-2010s. This movement emerged from the initiative of public defenders and other professionals at the institution who were aligned with feminist agendas. Upon assuming leadership positions, these women began engaging with different segments of social movements, especially feminist and women's movements, promoting internal debate on sexual and reproductive rights. This process helped overcome historical resistance and strengthen an institutional policy to combat violence against women, culminating in the creation of NUDEM.

I recall that this issue [of sexual and reproductive rights] only emerged at NUDEM — which is about to turn twenty-eight — more recently. It began with a discussion on domestic violence, which arose to address that issue, right? But this issue, for many years, many years, did not come up. (...) In fact, the topic began to emerge as the policy for women itself took shape. So I'll go out on a limb and say: politics with women. [The issue emerges] when the Public Defender's Office allows the women's movement — organized movements, the feminist movement, and organized civil society — to begin entering the Public Defender's Office; then these issues will start to appear (Interview 04)

In the 2010s, the national landscape was marked by progressive, people-oriented governments, characterized by a more consistent commitment to the agenda of gender, ethnic, and racial equity, as well as sexual and reproductive rights. This movement was also reflected in the state of Rio de Janeiro, with greater institutional consolidation of agencies and policies in the field of human rights and diversity<sup>(27)</sup>. In this context, changes can also be observed in the structure of the DPRJ that reflect a greater incorporation of the human rights agenda into the institution.

Specialized coordination units and centers have been created to address collective and individual demands from a human rights perspective (Human Rights, Women's Rights, Racial Equality, Sexual Diversity, Health, etc.). In addressing demands related to access to legal abortion, a distinct approach — one that moves away from a criminal framework — is adopted regarding the issue of abortion, prioritizing the protection and guarantee of human rights:

Speaking of the issue of abortion, how was it handled previously? Women were basically assisted in criminal courts, in cases of rape. And there was no specific referral process to public institutions for her to obtain a legal abortion. We had specific legal actions for authorizing abortion, and this was done in criminal jury courts. Since abortion was considered a crime against life, it was tried by jury judges. So it was the jury defense attorneys who made these requests. Later, these requests began to be made by human rights centers; at that time, a human rights center had already been established, though it was not the women's center. But due to issues of violence, we began assisting women. And so the center was named the Specialized Center for Women's Services. (Interview 07)

According to the interviewees, requests for access to legal abortion generally reach the Public Defender's Office after the applicants have been denied care by health services. They identified as main barriers the widespread use of conscientious objection by health professionals — especially when the pregnancy exceeds 22 weeks — and the teams' lack of knowledge regarding current legislation and regulations from the Ministry of Health, the WHO, and other regulatory bodies.

Requests for legal abortion that reach the institution can be handled by any public defender — from the initial response units in municipalities outside the capital, specialized units, judicial courts, or the jury court — as there is no body with exclusive jurisdiction over cases related to access to legal abortion. However, the main entry points for these requests are the Human Rights Center (NUDEDH) — which handles requests for termination in cases of anencephaly and other fetal syndromes — and the Special Center for the Defense of Women's Rights (NUDEM), which receives cases of pregnancy resulting from sexual violence - both based in the state capital, the city of Rio de Janeiro. In other municipalities, the primary care centers, which handle general requests, serve as the entry point for abortion-related requests.

In the interviews, one of the main challenges identified in the DPRJ's work regarding the reception and referral of requests for pregnancy termination was the so-called “municipal bottlenecks” - that is, the lack of priority given to legal abortion. Municipal primary care centers are perceived as bottlenecks because they handle general requests, have fewer resources and expertise, and, in some cases, operate in political contexts less favorable to addressing abortion-related issues. The public defenders interviewed believe that it is the strategic role of the capital's specialized centers to provide support and guidance to their colleagues in the municipalities, especially regarding legal reasoning, drafting official letters, and the proper referral of requests to health services. Furthermore, when cases cannot be resolved at the municipal level, they should be referred to these specialized units, particularly NUDEM or NUDEDH.

Over the years, the experience gained in addressing legal abortion requests has led professionals at NUDEM and NUDEDH to consolidate routines and working methods, aiming to improve practices. When faced with a request for a legal termination of pregnancy, an extrajudicial solution is sought as a priority, since the judicial route always involves the risk of unfavorable decisions - especially when the pregnancy is already advanced or when the report on fetal malformation is inconclusive regarding the viability of extrauterine life. Thus, through extrajudicial official letters, requests to perform the procedure are forwarded directly to health services, with which communication and dialogue are frequently established. Only when extrajudicial avenues are exhausted is the judicial process resorted

to. In such cases, requests are submitted to the Jury Court via a warrant authorizing the termination of pregnancy, and when denied, habeas corpus petitions are filed in an attempt to overturn the decision.

In 2016, the DPRJ implemented the Green System with the aim of facilitating the work of staff and public defenders in organizing legal proceedings and promoting transparency in data regarding services provided by the Public Defender's Office. The platform is still in the implementation phase in municipalities across the state of Rio de Janeiro, and data entry is not mandatory; however, approximately 76% of the Public Defender's Office's service units have already adopted it, and it is already essential to the institution's information flow.

The system records and organizes the information that public defenders receive and produce, in addition to enabling the generation of statistics and the importation of data from other systems, eliminating the need to search for and retrieve data in other environments. Furthermore, through the system, DPRJ offices responsible for initial case handling will have IT tools for all daily tasks, from issuing official letters to the electronic distribution of legal documents. The tool is accessed via an app that gives public defenders mobile access to the office's case schedule.

Cases involving requests for legal abortion are also entered into the Green System. For the study, the DPRJ, through the Directorate of Studies and Research on Access to Justice, provided access to anonymized data stored in the system regarding twenty-seven cases of requests for judicial authorization to terminate a pregnancy due to risk to the pregnant woman's life, from 2020 to 2022. In this group, the women's ages ranged from 10 to 47 years old, and 82% of them were Black. Regarding marital status, 54.5% were single, 27.3% were in a common-law marriage, and 18.2% were married. Most of the women were residents of the city of Rio de Janeiro (62.5%), and 39% of them reported being unemployed. This profile of women served by the DPRJ seeking legal abortion corroborates what the interviewed professionals stated: that the clients are primarily "Black and Brown women living in outlying areas, with limited access, low levels of education, and limited access to social welfare policies." (Interview 03)

### *Using legal channels to overcome barriers and ensure access to legal abortion*

In addition to receiving and referring to individual requests for access to legal abortion, the DPRJ - primarily through NUDEM, NUDEDH, and COMULHER has been playing a decisive role in strengthening collective rights and implementing public health policies related to abortion. This work is carried out in coordination with other state Public Defender's Offices, government agencies, civil society organizations, and social movements. The case study of the DPRJ, in this context, invites us to reflect on the effectiveness of using procedural paths to demand to the state to implement health policies and sexual and reproductive rights, especially on issues marked by moral and ideological conflicts, which often hinder the advancement of these rights.

International jurisprudence has evolved in recent decades regarding the application of procedural law and administrative norms as mechanisms for accessing sexual and reproductive rights, such as access to safe abortion, in restrictive legal contexts. An example would be the development of regulations or protocols to ensure access to abortion within existing legal frameworks. Human rights standards regarding procedural law to expand access to abortion in restrictive legal contexts have been developed by the European Human Rights System<sup>(28)</sup>.

In an Irish case, the European Court imposed on the State a positive obligation to prevent human rights violations through the use of procedural law to reform laws and administrative regulations to

ensure access to abortion<sup>(28)</sup>. The literature suggests that such advances can drive subsequent reforms of restrictive national abortion laws, paving the way for their decriminalization. For example, in the case of *Tysi c v. Poland*, the European Court of Human Rights recognized that:

“The legal prohibition of abortion, combined with the risk of criminal liability, can have a deterrent effect on physicians when deciding whether the requirements for legal abortion are met in an individual case. Provisions regulating the availability of legal abortion must be formulated in a way that mitigates this effect. Once the legislature decides to allow abortion, it must not structure its legal framework in a way that limits the actual possibility of obtaining it.”

Brazil adopts the legal system known as *Civil Law*, whose primary source of law is found in the text of the law, in the codes that describe general principles, and in the Federal Constitution. In contrast, English-speaking countries adopt the Common Law system, based on customary law recognized by judges, whose legal analysis is grounded in previous decisions in similar cases<sup>(29)</sup>. Thus, when we refer to the application of international standards regarding the use of procedural law in Common Law countries, we make a conceptual distinction, since our country adopts the Civil Law system.

In this article, we refer to the procedural path to describe the use of non-binding internal administrative instruments (soft law<sup>3</sup>), of a technical-operational nature, which function as mechanisms for inter-institutional coordination and tools to guarantee the right to access legal abortion through the DPRJ<sup>(30)</sup>.

It should also be noted that we start from the premise that international human rights law and the precedents of the jurisprudence of international human rights bodies, which are part of so-called soft law, or non-binding law, should be applied as a decolonial tool to circumvent the imperialism present in the sources of international law (human rights). This perspective is central to the proper incorporation of international standards in accordance with the highly diverse social realities and legal contexts in the countries of the Global South<sup>(30)</sup>.

In the case of our study on the DPRJ’s activities, an internal administrative procedural guideline was developed to regulate and guarantee access to legal abortion without unnecessary barriers, which exemplifies the use of procedural mechanisms or soft law to expand access to rights. The initiative arose through a joint inter-institutional effort by the Coordination for the Defense of Women’s Rights (COMULHER) and the Commission for Guaranteeing Comprehensive Health Care for Girls and Women (CGAISM), via the National Protocol for the Care of Persons in Situations of Legal Abortion<sup>(31)</sup>.

The Protocol was a national initiative coordinated among the NUDEMs of various state Public Defender’s Offices, such as those in Bahia, Esp rito Santo, Goi s, Mato Grosso do Sul, Minas Gerais, Paran , Roraima, and Santa Catarina. This joint action demonstrated the potential of using soft law to overcome institutional barriers that still limit the implementation of policies ensuring access to legal abortion in the country.

The Protocol establishes the flow of requests and their referrals within the intersectoral network, offering an alternative to the so-called “pilgrimage” of women, girls, and people with the capacity to

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<sup>3</sup> Soft law refers to the set of non-mandatory or non-binding norms, protocols and guidelines that nonetheless possess a strong capacity to guide behavior, shape public policies and influence administrative and judicial decisions, including decisions issued by international human rights protection bodies.

gestate in search of access to legal abortion in health services, given the frequent refusals by professionals to perform the procedure; and is still in the implementation phase throughout the country.

Another example of the procedural path to demand the implementation of public health policies by the state was the drafting of Joint Recommendation 01/2024/02DRHRJ, submitted to the Ministry of Health by the State Defendant's Offices of Rio de Janeiro, Pará, Roraima, Mato Grosso do Sul, the Federal District, and Paraná, aimed at promoting the expansion of access and quality of legal abortion services in the country<sup>(32)</sup>.

The Joint Recommendation addresses these barriers, emphasizing abortion as a public health issue and the need to expand referral services; the impossibility of restricting access to abortion based on gestational age; external reporting to law enforcement and the confidential nature of such reporting to protect the victim's identity based on professional confidentiality; the benefits of telemedicine for access to abortion and the use of misoprostol; the right to abortion in cases of risk to the pregnant woman's life, particularly in cases of pregnancy among children and adolescents who are victims of sexual violence; the misuse of conscientious objection by health professionals and the ethical and professional duties to guarantee a woman's right to terminate a pregnancy; the imposition of inhumane requirements for legal abortion through bills currently under consideration in state legislatures and the need to adopt guidelines for health services to prevent procedures that violate women's dignity and impose "dehumanizing and perverse obstacles to the exercise of a legitimate right," under penalty of constituting the crime of institutional violence<sup>(32)</sup>.

### *The role of the DPRJ as a mechanism for defense and guarantee of human rights*

In a joint effort by COMULHER, NUDEM, and COSAU, municipalities with "bottlenecks" in access to legal abortion were identified. Initially, these organizations conducted a mapping exercise to assess access difficulties and the quality of legal abortion care in the state:

So we began to identify the bottlenecks in the municipalities. Where there was a recurrence of service denials, what the problems were, because we prioritized extrajudicial solutions regarding cases of legal abortion. Because we know that going to court isn't always the answer — we have an adequate response — so we always sought to engage in dialogue with the health departments. And based on this contact with frontline public defenders, we decided, together with the health coordination team, to send official inquiries to the 94 municipalities and the state of Rio de Janeiro, asking a series of questions about care, how women in situations of domestic violence were being cared for, whether there was information about the "next-minute" law, about access to legal abortion services, staff, number of professionals, whether it was provided or not, whether there were any conscientious objectors on the team, and if there were, what the alternative was. (Interview 03)

Professional and institutional barriers related to the demand for pregnancy termination due to sexual violence were particularly highlighted by the interviewees and point to a situation of gender discrimination and institutional violence in access to healthcare. They pointed out strong gender-discriminatory biases in the experiences of women seeking legal abortion in their interactions with the justice system.

The systematic occurrence of distrust regarding the word of the victim of sexual violence and the fear that she might be lying was highlighted, especially when there are discrepancies between her

narrative and technical records, such as ultrasound exams. This scenario highlights a “shared regime of suspicion toward the woman’s narrative, expressed through forensic investigative practices surrounding the act of violence and the victim’s subjectivity”<sup>(33)</sup>:

I think the greatest difficulty lies in cases of sexual violence. Because here we see all the ingredients of gender discrimination. It is a woman who has actually suffered violence, whose word is questioned in the healthcare system. Sometimes her word will be questioned by the police when she goes to file a report: “Why did it take so long?” Even when she receives assistance from the Public Defender’s Office, there is a chance she will face discrimination as well. Her word will be questioned there, too. (Interview 03)

In this context, cases are often brought to court unnecessarily, since abortions permitted by law do not require judicial authorization. In these cases, a reversal of roles is observed: the victim, who should have her rights guaranteed by law, becomes the suspect and must prove the violence she suffered in order to access her rights. A thorough examination of the account of the facts is conducted, first by healthcare professionals and then by the jury court judge:

So, in cases of sexual violence, what we see is that these barriers exist... time and again, the cycle of violence is perpetuated by the public health system itself and the judiciary. So, the woman [with a pregnancy resulting from violence] often arrives referred by the service, because doctors are afraid to perform the procedure — unlike in the case of termination due to risk to the pregnant woman, where the doctor themselves certifies the risk and performs it. But in the case of a narrative of sexual violence, they have this idea that the woman might be lying, right? And they refer her for the initial authorization, which is directed to a judge with criminal jurisdiction — that is, a jury trial — because abortion must fall within the scope of cases tried by this special court, which is the jury court. So, it is directed to a judge with criminal jurisdiction, and ceases to be a public health issue. It becomes a criminal issue. (...) Although there is no legal provision for this, they just remain apprehensive... (Interview 05)

It is interesting to note that the Jury Court originally has jurisdiction to try crimes against life, among which abortion is included, as defined by the Penal Code. Thus, what would be a demand for access to healthcare comes to be examined through the lens of criminal investigation. Because the case is being heard in the Jury Court, it takes on a prosecutorial character, in which the word of the victim of sexual violence is not considered sufficient, and the judge, through the judicial process, seeks further evidence to determine whether or not access to legal abortion is lawful.

The moral judgment of people seeking abortions - often driven by religious bias - and conscientious objection are also found among professionals within the DPRJ itself:

Just as there are healthcare professionals who are conscientious objectors, we have members of the [DPRJ] staff who are conscientious objectors, who will not always provide adequate treatment when faced with such a case. They may be conscientious objectors, but they should at least refer to the patient, right? Pay attention, not revictimize... We’ve never actually had a complaint about this, because we know that women in a situation of extreme vulnerability won’t bother to complain; they won’t seek out an ombudsman. I think that’s our biggest problem. (Interview 03)

The actions driven by the DPRJ to expand access to abortion provided by law and reduce professional and institutional barriers focused on monitoring the implementation of public policies by the Brazilian state based on its international human rights obligations:

“...the logic is to look at public policy. What we have today is the legal provision for legal abortion. We’re not even talking about expanding abortion, but rather about the legal provisions. Which public facilities perform [the legal termination of pregnancy], what are the main barriers, the obstacles preventing this pregnant woman specifically from accessing the service, and especially in the context of late-term abortion. (Interview 05)

Such actions included carrying out interventions with other external bodies, such as the Judiciary (through the State Coordination Office for Women), the Rio de Janeiro State Health Secretariat (through the coordination of the technical area of women’s health), legislative committees (such as the Human Rights Committee and the Women’s Rights Committee of the Rio de Janeiro State Legislative Assembly); the Perinatal Forum, the Ministry of Health, the Federal Public Prosecutor’s Office, the Federal Public Defender’s Office, and the National Council of Public Defenders-General (CONDEGE), with the submission of recommendations addressed to the states and the federal government.

“...during the pandemic, we made recommendations both at the state level and joint recommendation to the Ministry of Health to ensure access to services related to sexual and reproductive rights for women during the pandemic. The group of female public defenders from CONDEGE, from CONDEGE’s Women’s Commission, is deeply committed to issues related to sexual and reproductive rights. This is the National Council of Public Defenders.” (Interview 03)

The institutional partnership with these agencies also facilitated the referral and handling of landmark cases through the network of specialized services. The DPRJ held meetings to map out the processes and assess the practical situation regarding access to legal abortion in municipalities across the state of Rio de Janeiro, and sought to raise awareness among municipal and state officials to expand the availability of legal abortion services. Through these actions, the DPRJ acted as a mechanism for defending and guaranteeing human rights, sometimes demanding that the government implement public policies and sometimes providing legal defense in landmark cases involving the denial of access to legal abortion.

It is relatively common for women seeking legal termination of pregnancy resulting from sexual violence to arrive at the DPRJ in advanced stages of pregnancy. The interviewees pointed out that the absence of updated Ministry of Health guidelines on abortion care regarding this issue — given that the latest edition of the Technical Guidelines for Humanized Abortion Care was published in 2014 — contributes to misinformation and legal uncertainty within health services and the judiciary. This scenario generates resistance, both among health professionals and legal practitioners, regarding access to legal abortion in cases of pregnancies at 20 to 22 weeks or later:

I think the biggest difficulty... is the significant legal uncertainty. Even though the right has been legally established for many years... I think originally the idea was that a judge wouldn't even grant permission; they were supposed to rule that this wasn't a matter for the courts. That way, perhaps the health service could perform the abortion without judicial authorization. And I think the biggest difficulty for the pregnant women we assisted was the time it took them, from the start of prenatal care until a definitive diagnosis of fetal malformation. That took a long time! And then when they arrived, they were in a lot of distress. Because they were further along in their pregnancy, right? They already had a whole life project in mind on motherhood and yet they encountered a service that refused to perform the abortion due to the stage of pregnancy. (Interview 02)

[The Ministry of Health guidelines] were very important, right? To ensure the service, to at least establish a basic framework for the service, but we know they need to be modified, right? And then there's a misinterpretation, especially regarding the gestational age, which leaves all of that aside — all this discussion about the impossibility of legal abortion beyond a certain gestational age or fetal weight. (Interview 03)

The biggest point of uncertainty is when the fetus is nonviable, which isn't exactly what's legally defined, you know? What also happens is that I've already had problems in court, with lawsuits. When a woman is in the late stages of pregnancy, we try very hard — we always try very hard not to file a lawsuit. Because, you see, if the health system that's used to this is already struggling, a judge in a robe will have twice the difficulty. (Interview 01)

The journey of many people seeking a legal termination of pregnancy is marked by a veritable pilgrimage between health services and the justice system, with advanced pregnancy, in many cases, being a consequence of this very journey. The punitive nature associated with the delay was highlighted, exposing a scenario of institutional violence and reproductive injustice, exacerbated by the omission of health services and the lack of accountability for the failure to fulfill the duty of that institution which, after refusing, should refer the patient to another institution that performs the procedure and follow the case through to its conclusion.

So why do we talk so much about mapping her journey, about the great injustice that [the delay] causes? Nineteen weeks in, she arrives at the first facility and they won't treat her; then she goes to the second facility at twenty weeks and they say they won't treat her; then, when she finally manages to find a facility that could treat her, she's already twenty-three weeks along, and the facility says they won't treat her because she's twenty-three weeks along — even though she's been seeking this care since the very first week. So that's what we want to show: you're the ones who messed up, not her, so stop punishing her. (...) And then she goes past the deadline — and who's going to take care of her then? No one. (Interview 05)

### ***Public advocacy in defense of abortion as provided by law***

The role of the Public Defender's Office is established by the Constitution of the Republic to ensure "comprehensive and free legal assistance to those who demonstrate insufficient resources" (Art. 5, LXXIV)<sup>(34)</sup>. Following legislative changes, a new direction has been set, and the Public Defender's Office now prioritizes institutional action grounded in the promotion of human rights and the defense of collective interests.

Over the past decade, the DPRJ has carried out significant public interest advocacy actions on the national and international stage through strategic litigation in landmark cases, studies on legal proceedings involving the criminalization of women for abortion, and extrajudicial actions to monitor the implementation of public policies and issue technical briefs, aiming to advance the sexual and reproductive rights agenda and prevent setbacks in the field of legal abortion rights. These initiatives support civil society advocacy efforts that champion the reproductive justice agenda.

One example was when, to prevent setbacks in access to legal abortion in cases of late-term pregnancies, the DPRJ took action in conjunction with the Centers for the Promotion and Defense of Women's Rights (NUDEMs) of the Public Defender's Offices in the states of Bahia, Mato Grosso do Sul, Minas Gerais, Paraná, Pernambuco, Santa Catarina, and São Paulo, and with the Federal Public Defender's Office, through a Technical Note titled "On the Illegality of CFM Resolution No. 2.378/2024, which regulates the medical procedure of fetal asystole for pregnancy termination in cases of abortion permitted by law resulting from rape." According to the note prepared by the Public Defender's Offices, Article 128 of the Brazilian Penal Code permits the termination of pregnancy in cases of rape, without imposing any limit regarding gestational age or establishing any other requirements for this exclusion of criminal liability to apply, thereby opposing the arguments contained in the Resolution:

"We used to draft technical briefs; we on the women's committee of CONDEGE [National Council of Public Defenders] drafted a technical brief on the CFM resolution." (Interview 03)

Another initiative that was part of the DPRJ's collective public interest advocacy was the use of strategic litigation on issues of gender and reproductive justice, when it joined as Amicus Curiae in the Action for Non-Compliance with a Fundamental Precept (ADPF) 442, which sought the decriminalization of abortion up to the 12th week, and in ADPF 989 regarding the unconstitutional state of affairs concerning legal abortion.

The DPRJ also promoted educational campaigns on rights and the training of grassroots advocates through a women's rights training course and distributed posters explaining that a police report is not required to access legal abortion services, as well as information on the right to emergency contraception within 72 hours of sexual violence, to guide the public. This initiative was developed at the time in collaboration with Councilwoman Marielle Franco.

Research conducted by the DPRJ shows that the healthcare system is the gateway to the criminalization of women and adolescents for abortion: "after police investigations (52.3%), reports from hospitals/doctors are the most common source of information for authorities regarding abortion, accounting for 30.9% of the total"<sup>(35)</sup>.

A milestone in the DPRJ's history of public advocacy, highlighted in the interviews, was the study on criminalized women covering 64.7% of the legal cases handled by the institution between 2005 and 2017, which led to the publication "Between Death and Prison: Who Are the Women Criminalized for Abortion in Rio de Janeiro," published in 2018<sup>(36)</sup>. The book was written by advocates and invited contributors, influencing internal debate at the DPRJ and in society more broadly regarding the impacts of abortion criminalization on the most vulnerable and racialized groups of women.

The data collected in this study on the profile of women criminalized for abortion were presented during the legal debate on the right to abortion at the public hearing for ADPF 442 at the Federal

Supreme Court. On that occasion, the DPRJ representative stated in her oral argument that “the criminalization of abortion represents a policy of death for Black women”<sup>(23)</sup>.

## Final Considerations

The incorporation of human rights standards into laws, public policies, norms, and protocols through the efforts of the Public Defender’s Office of the State of Rio de Janeiro, to ensure equal access to legal abortion without discrimination based on race, age, or gender, presents itself as a viable alternative to the application of criminal law, until the full decriminalization of abortion is achieved.

While the Federal Supreme Court has not yet ruled on ADPFs 442 and 989, which address the issue of access to abortion, the State continues to fail in its human rights obligations by not implementing public policies to effectively guarantee access to legal abortion. Access to legal abortion remains precarious and disproportionately affects women, girls, and pregnant people in situations of greater vulnerability.

New legal paradigms that replace the application of criminal law and introduce new regulatory models and mechanisms to guarantee rights in the interest of reproductive justice are necessary to mitigate human rights violations and ensure institutional accountability for racism and obstetric violence in healthcare.

Preliminary results demonstrate that the use of *soft law* — through the incorporation of international human rights standards and the use of administrative norms and procedures to expand access to rights via procedural channels — can contribute to expanding access to abortion permitted by law, particularly in a scenario where the State fails to ensure effective public policies.

The DPRJ’s role as a human rights mechanism requires the state to implement public health policies and guarantee access to abortion permitted by law. Among its various actions are: sending official letters in individual cases refused by health services, requesting judicial authorizations, and issuing Technical Notes and Joint Recommendations in partnership with other state public defender’s offices across the country.

Furthermore, by establishing the Green System — aimed at creating a database — and drafting the National Protocol, the institution adopts best practices designed to reduce barriers and expand access to legal abortion. These initiatives provide the necessary technical and legal support, structuring and institutionalizing a practice of defending and promoting human rights. By guiding health care professionals on the legal and ethical frameworks of health care and detailing in the Protocol the responsibilities of the institutions that make up the intersectoral care network for people in situations of sexual violence, the Public Defender’s Offices prevent setbacks and contribute to reducing existing barriers to legal abortion.

The DPRJ’s work through public advocacy illustrates the various possible strategies that move away from a punitive, stigmatizing approach to ensure human rights based on the paradigm of health equity and reproductive justice. This approach contributes to question the relevance of criminalizing abortion and expands access to legal abortion, recognizing the right to bodily autonomy of girls, women, and pregnant people — particularly Black and Indigenous women, those in worse socioeconomic conditions, and the most vulnerable, residing in the most remote areas of the country.

## References

1. Díez J, Ruibal A. The Decriminalization of Abortion in Latin America: A Tale of Gradual Judicialization. *PS Polit Sci Polit* [Internet]. 2024 [cited Nov 7, 2025];58(1):48-51. Available from: <https://doi.org/10.1017/S1049096524000660>
2. Erdman JN, Cook RJ. Decriminalization of abortion – A human rights imperative. *Best Pract Res Clin Obstet Gynaecol* [Internet]. 2019 [cited Nov 25, 2025];62:11-24. Available from: <https://doi.org/10.1016/j.bpobgyn.2019.05.004>
3. World Health Organization. Abortion care guideline [Internet]. Geneva: WHO; 2022 [cited Nov 30, 2025]. Available from: <https://www.who.int/publications/i/item/9789240039483>
4. Uberoi D, De Bruyn M, Galli B. Using human rights to address consequences of criminal laws on sexuality and reproductive autonomy. *The International Journal of Human Rights* [Internet]. 2012 [cited Nov 22, 2025];16(7):1023-39. Available from: <https://doi.org/10.1080/13642987.2011.652366>
5. Zordo SD. The biomedicalisation of illegal abortion: the double life of misoprostol in Brazil. *Hist Cienc Saude Manguinhos* [Internet]. 2016 [cited Nov 6, 2025];23(1):19-36. Available from: <https://www.scielo.br/j/hcsm/a/X74PWDTg8njthWPPH5dVQSD/>
6. Galli B, Sydow E, Adesse L. Autonomia reprodutiva em questão: relatos de mulheres sobre aborto e estigma em Mato Grosso do Sul [Internet]. Rio de Janeiro: Ipas Brasil; 2010 [cited Nov 15, 2025]. Available from: <http://dx.doi.org/10.2139/ssrn.2703948>
7. Brasil. Decreto-Lei nº 2.848, de 7 de dezembro de 1940. Institui o Código Penal. Brasília (DF): Presidência da República; 1940 [cited Nov 19, 2025]. Available from: [https://www.planalto.gov.br/ccivil\\_03/decreto-lei/del2848.htm](https://www.planalto.gov.br/ccivil_03/decreto-lei/del2848.htm)
8. Brasil. Supremo Tribunal Federal. Arguição de Descumprimento de Preceito Fundamental nº 54/DF [Internet]. Brasília: STF; 2012 [cited Nov, 18, 2025]. Available from: <https://www.stf.jus.br/arquivo/cms/noticianoticiastf/anelxo/adpf54.pdf>
9. Rybka LN, Cabral CS. Morte e vida no debate sobre aborto: uma análise a partir da audiência pública sobre a ADPF 442. *Saude Soc* [Internet]. 2023 [cited Nov 2, 2025];32(2):e220527pt. Available from: <https://doi.org/10.1590/S0104-12902023220527pt>
10. Galli B. Aborto: novos ventos sopram pela justiça reprodutiva no STF [Internet]. JOTA; 2023 [cited Sep 25, 2023]. Available from: <https://www.jota.info/artigos/novos-ventos-sopram-pela-justica-reprodutiva-no-stf-25092023>
11. Jacobs MG, Boing AC. Como a normatização sobre o serviço de aborto em gravidez decorrente de estupro afeta sua oferta nos municípios? *Cien Saude Colet* [Internet]. 2022 [cited Nov 11, 2025];27(9):3689-3700. Available from: <https://doi.org/10.1590/1413-81232022279.05352022>
12. Diniz D, Madeiro A, Rosas C. Conscientious objection, barriers, and abortion in the case of rape: a study among physicians in Brazil. *Reproductive Health Matters* [Internet]. 2014 [cited Nov 27, 2025];22(43):141-148. Available from: [https://doi.org/10.1016/S0968-8080\(14\)43754-6](https://doi.org/10.1016/S0968-8080(14)43754-6)
13. Silva JKJ. Acesso aos serviços de aborto legal em casos de estupro: intersecções de gênero, raça, classe e território [Dissertação]. Recife: Universidade Federal de Pernambuco; 2020 [cited Nov 28, 2025]. Available from: <https://repositorio.ufpe.br/handle/123456789/37874>
14. Diniz D, Medeiros M, Madeiro A. National Abortion Survey - Brazil, 2021. *Cien Saude Colet* [Internet]. 2023 [cited Nov 11, 2025];28(6):1601-1606. Available from: <https://doi.org/10.1590/1413-81232023286.01892023>
15. Ambast S, Atay H, Lavelanet A. A global review of penalties for abortion-related offences in 182 countries. *BMJ Global Health* [Internet]. 2023 [cited Nov 5, 2025];8(3):e010405. Available from: <https://doi.org/10.1136/bmjgh-2022-010405>
16. Pacagnella R, Nakamura-Pereira M, Gomes-Sponholz F, Aguiar RALP, Guerra GVQL, Diniz CSG, et al. Maternal Mortality in Brazil: Proposals and Strategies for its Reduction. *Revista Brasileira de Ginecologia e Obstetrícia* [Internet]. 2018 [cited Nov 3, 2025];40(9):501-506. Available from: <https://doi.org/10.1055/s-0038-1672181>
17. Diniz D, Medeiros M, Souza PHGF, Góes E. Aborto e raça no Brasil, Pesquisa Nacional de Aborto 2016 a 2021. *Cien Saude Colet* [Internet]. 2023 [cited Nov 23, 2025];28(11):3085-3092. Available from: <https://doi.org/10.1590/1413-812320232811.14062023>
18. Goes EF, Menezes GMS, Almeida MCC, Araújo TVB, Alves SV, Alves MTSSB, et al. Vulnerabilidade racial e barreiras individuais de mulheres em busca do primeiro atendimento pós-aborto. *Cad Saude Publica* [Internet]. 2020 [cited Nov 9, 2025];36(Suppl 1):e00189618. Available from: <https://doi.org/10.1590/0102-311X00189618>
19. Brito L, Galli B, Severi F. Criminalização do aborto é ineficaz e tem efeitos colaterais perversos. *JOTA* [Internet]. 2025 [cited Aug 18, 2025]. Available from: <https://www.jota.info/opiniao-e-analise/artigos/criminalizacao-do-aborto-e-ineficaz-e-tem-efeitos-colaterais-perversos>

20. Universidade de São Paulo, Faculdade de Direito de Ribeirão Preto; Clooney Foundation for Justice, TrialWatch. Aborto no Brasil: Falhas Substantivas e Processuais na Criminalização de Mulheres [Internet]. São Paulo: USP; 2022 [cited Nov 25, 2025]. Available from: <https://www.direitorp.usp.br/wp-content/uploads/2022/07/POR-USP-CLS-Abortion-Report.pdf>
21. Bourguignon AM. Interseccionalidade, direitos humanos e justiça reprodutiva: avaliação crítica em saúde sexual e reprodutiva. *Saúde debate* [Internet]. 2024 [cited Jan 26, 2026];48(142):e9113. Available from: <https://www.saudeemdebate.org.br/sed/article/view/9113>
22. Luna N, Porto R. Aborto, valores religiosos e políticas públicas: a controvérsia sobre a interrupção voluntária da gravidez na audiência pública da ADPF 442 no Supremo Tribunal Federal. *Relig Soc* [Internet]. 2023 [cited Nov 21, 2025]. Available from: <https://doi.org/10.1590/0100-85872023v43n1cap06>
23. Casseres LMMD. Racismo estrutural e a criminalização do aborto no Brasil. *Sur - Revista Internacional de Direitos Humanos* [Internet]. 2018 [cited Jan 26, 2025]15(28):77-85. Available from: <https://sur.conectas.org/wp-content/uploads/2019/05/sur-28-portugues-livia-miranda-muller-drumond-casseres.pdf>
24. Galli B, Bonan C. A Defensoria Pública do Estado do Rio de Janeiro e a defesa do direito ao aborto: um estudo de caso. *Interface (Botucatu)* [Internet]. 2026 [cited Nov 19, 2025]. Available from: <https://doi.org/10.1590/interface.250314>
25. Crowe S, Cresswell K, Robertson A, Huby G, Avery A, Sheikh A. The case study approach. *BMC Medical Research Methodology* [Internet]. 2011 [cited Nov 14, 2025];11:100. Available from: <https://doi.org/10.1186/1471-2288-11-100>
26. Yin RK. *Estudos de caso: planejamento e métodos*. Porto Alegre: Bookman; 2005. 212 p.
27. Gonzalez DF. Lado a lado? Feminismos e Estado durante o “ciclo progressista” latino-americano. *Rev Estud Fem* [Internet]. 2020 [cited Nov 13, 2025];28(3):e63040. Available from: <https://doi.org/10.1590/1806-9584-2020v28n363040>
28. Erdman JN. The Procedural Turn: Abortion at the European Court of Human Rights. In: Cook RJ, Erdman JN, Dickens BM, editores. *Abortion Law in Transnational Perspective: Cases and Controversies*. Philadelphia: University of Pennsylvania Press; 2014. p. 121-142.
29. Dellaghezze R. *A Teoria Geral do Direito e os Sistemas Jurídicos da Civil Law e da Common Law* [Internet]. 2020 [cited Nov 4, 2026]. Available from: <https://jus.com.br/artigos/84623/a-teoria-geral-do-direito-e-os-sistemas-juridicos-da-civil-law-e-da-common-law>
30. Nasser SH. *Soft law: um estudo sobre as normas e as fontes do Direito Internacional* [Tese]. São Paulo: Universidade de São Paulo; 2004 [cited Jan 26, 2026]. Available from: <https://repositorio.usp.br/item/001423651>
31. Defensoria Pública do Estado do Paraná. Protocolo Nacional de Atendimento a Pessoas em Situação de Aborto Legal [Internet]. Curitiba: DPE-PR; 2024 [cited Nov 21, 2025]. Available from: [https://www.defensoriapublica.pr.def.br/sites/default/arquivos\\_restritos/files/documento/2024-06/protocolo\\_de\\_atendimento\\_a\\_pessoas\\_em\\_situacao\\_de\\_aborto\\_legal.pdf](https://www.defensoriapublica.pr.def.br/sites/default/arquivos_restritos/files/documento/2024-06/protocolo_de_atendimento_a_pessoas_em_situacao_de_aborto_legal.pdf)
32. Defensoria Pública da União. Recomendação Conjunta nº 01/2024 [Internet]. 2024 [cited Nov 21, 2025]. Available from: [https://www.defensoriapublica.pr.def.br/sites/default/arquivos\\_restritos/files/documento/2024-02/recomendacao\\_conjunta\\_aborto\\_legal\\_assinada\\_-\\_assinado\\_6f\\_-\\_final.pdf](https://www.defensoriapublica.pr.def.br/sites/default/arquivos_restritos/files/documento/2024-02/recomendacao_conjunta_aborto_legal_assinada_-_assinado_6f_-_final.pdf)
33. Diniz D, Dios VC, Mastrella M, Madeiro AP. A verdade do estupro nos serviços de aborto legal no Brasil. *Rev Bioet* [Internet]. 2014 [cited Nov 1, 2025];22(2):291-298. Available from: <https://doi.org/10.1590/1983-80422014222010>
34. Brasil. Constituição (1988). *Constituição da República Federativa do Brasil* [Internet]. Brasília (DF): Presidência da República; 1988 [cited Nov 20, 2025]. Available from: [https://www.planalto.gov.br/ccivil\\_03/Constituicao/Constituicao.htm](https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm)
35. Rio de Janeiro (Estado). Defensoria Pública do Estado do Rio de Janeiro. A Defensoria em dados II: pesquisas realizadas pela Defensoria Pública do Estado do Rio de Janeiro [Internet]. Rio de Janeiro: DPERJ; 2020 [cited Jan 26, 2026]. Available from: <https://defensoria.rj.def.br/uploads/arquivos/1a93341e45774a80908a4ffc1d235024.pdf>
36. Rio de Janeiro (Estado). Defensoria Pública do Estado do Rio de Janeiro. Entre a morte e a prisão: quem são as mulheres criminalizadas pela prática do aborto no Rio de Janeiro [Internet]. Rio de Janeiro: DPERJ; 2018 [cited Nov 29, 2025]. Available from: <https://defensoria.rj.def.br/uploads/arquivos/c70b9c7926f145c1ab4cfa7807d4f52b.pdf>

## Editorial Information

### History

Received: October 9, 2025

Revised: March 9, 2026

Accepted: March 9, 2026

### Evaluation Process

Double-blind peer review.

### Open peer review

The options for opening the peer review process, including the publication of reviewers' reports, disclosure of identities and interaction between authors and reviewers, were not made available for this article.

### Preprint

The manuscript is not a preprint.

### Similarity check

This article has been subjected to a textual similarity check using the CopySpider software.

### Author contributions

B. Galli: conception/design of the article, data analysis and interpretation, drafting the article, critical revision of the article and approval of the final version of the article.

C. Bonan: conception/design of the article, data analysis and interpretation, drafting the article, critical revision of the article and approval of the final version of the article.

### Conflict of interest

The authors declare that they have no personal, commercial, academic, political or financial conflicts of interest in relation to this article.

### Funding

Not applicable.

### Research ethics approval

The research project was approved by the Research Ethics Committee of the Instituto Nacional de Saúde da Mulher, da Criança e do Adolescente Fernandes Figueira (IFF/Fiocruz), CAAE 84209424.0.0000.5269.

### Availability of research data

Not applicable.

### Declaration of use of Artificial Intelligence (AI) tools

Not applicable.

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### Publisher

Fundação Oswaldo Cruz (Fiocruz), Health Law Program, Brasília, DF, Brazil

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## How to cite (Vancouver)

Galli B, Bonan C. The procedural path for guaranteeing access to legal abortion and reproductive justice: the case of the Public Defender's Office of the State of Rio de Janeiro. *Cad. Ibero-Am. Direito Sanit.* 2026;15:e2026014. doi: [10.17566/ciads.e2026014](https://doi.org/10.17566/ciads.e2026014)