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**CRIMINALIZATION OF ABORTIONS AMONG YOUNG WOMEN: ANALYSIS OF THE
PUBLIC SAFETY AND JUSTICE SYSTEMS IN RIO DE JANEIRO**

Criminalización del aborto de las adolescentes: análisis de los sistemas de seguridad pública y
justicia en Rio de Janeiro

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Abstract: This report presents the results of research performed in Rio de Janeiro in 2013 surrounding the treatment, by the Civil Police and the Courts of Rio de Janeiro, of cases involving adolescents accused of abortion. The study demonstrates that the majority of young women charged with having abortions are non-white and belong to the most disadvantaged classes in terms of income, education level and social-mobility opportunities, which confirms the relationship among racism, poverty and the criminalization of abortion. Although the majority of charges are dropped and a reprieve (pardon) is granted, a case-by-case analysis showed that the different phases of the police investigation and the judicial proceeding – from the forensic medical exam to the delivery of summons by the court clerk and the “rap sheet” while the case is underway – are punitive and stigmatizing in and of themselves. The study also indicates that publication of the abortion and the adolescent’s passage through the State’s legal system involve disputes regarding the appropriateness of the women’s sexual conduct. Thus, the criminalization of abortions is not just an obstacle to a woman’s reproductive rights, but it also tends to be an impediment to acknowledging the right of adolescents to freely express their sexuality.

Key words: Abortion. Adolescents. Criminalization. Stigma. Justice System. Safety System.

Resumen: Este trabajo presenta los resultados de una investigación realizada en 2013 en Río de Janeiro, respecto al tratamiento de la Policía Civil y la Justicia de esta provincia a los casos de las adolescentes acusadas de aborto. El estudio muestra que la mayoría de las jóvenes que son criminalizadas por aborto son non-blancas y vienen de las clases más desfavorecidas en términos de renta, educación y oportunidades sociales, lo que confirma la relación entre el racismo, la pobreza y la criminalización del aborto. Aunque las decisiones judiciales han sido en su mayoría por el “arquivamento” (extinción) y la “reprieve” (perdón), el análisis de los procesos mostró que las diferentes etapas de la investigación policial y del proceso judicial – desde el examen médico forense hasta la entrega de la citación judicial por el oficial de justicia

y el registro de antecedentes penales marcado mientras que el procedimiento está en curso - son punitivas y estigmatizantes *per se*. El estudio también indica que la publicización del aborto y el passage de las adolescentes por las instituciones del Estado involucra disputas sobre la adecuación de sus conductas sexuales. En este contexto, la criminalización del aborto no sólo es un obstáculo para los derechos reproductivos de las mujeres, sino que también tiende a ser refractaria al reconocimiento del libre ejercicio de la sexualidad de las adolescentes como un derecho.

Palabras-clave: Aborto. Adolescentes. Criminalización. Estigma. Sistema de justicia. Sistema de seguridad.

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1. Presentation

The goal of this report is to present the results of the research project “Criminalization of abortions among young women: analysis of the public safety and judicial systems in Rio de Janeiro”, conducted by Ipas, an organization that seeks to promote both sexual and reproductive rights for women, as well as by the *Instituto de Estudos da Religião* (“ISER” – Institute for Religious Studies), a nongovernmental organization focusing on human rights and democracy. The study was done during the second half of 2013 in Rio de Janeiro, Brazil.

In previous studies done by the same organizations regarding the treatment dispensed by the Rio de Janeiro public safety and legal systems to women accused of abortion, they found that nearly 20% of the cases involved adolescent females ages 12 to 18. In Brazil, children and adolescents who commit crimes and misdemeanors are subject to specific measures, rites and institutions, as established in the Child and Adolescent Statute (Law 8069/1990). In light of these rules, this study analyzes the treatment of young women who have been accused of abortion by the Civil Police and the Juvenile Courts in the state capital of Rio de Janeiro.

A quantitative analysis was performed using data provided by the Civil Police and the Courts of Rio de Janeiro, starting with the report of an abortion crime among women between the ages of 12 and 17, from 2007 through 2011 in the state of Rio de Janeiro. Data analysis allowed us to identify how many abortion cases involved adolescents, as well as information related to

their race/color, education level, and where they live. Then a qualitative study was performed on the cases assigned to the Juvenile Courts in the capital district for the state of Rio de Janeiro, by analyzing the proceedings, arguments and decisions made by legal actors (defense attorneys, prosecutors, judges) and the technical team, consisting of psychologists and social workers. Finally, interviews were recently conducted with public defenders, state prosecutors, and psychologists in the same court that, despite being ongoing, helped to delimit the analyses performed. The main results will be presented below.¹

2. Introduction

In Brazil, abortion is only allowed in the event that a woman's life is at risk, or she has been raped, as established in the 1940 Criminal Code. The Brazilian Supreme Court recently upheld the constitutionality of therapeutic induction of labor in cases of anencephaly. Under all other circumstances, abortion is criminalized, with penalties varying from 1 to 3 years of incarceration for pregnant women; and for doctors who perform the procedure, penalties can reach as high as 20 years of incarceration.² Given these stiff legal restrictions, estimates range in the millions for the number of unsafe abortions that take place every year in Brazil, performed under conditions that place women's lives and health at risk.³

In Brazil, like other Latin American countries, the criminalization of abortion has had a perverse impact on how women exercise their human rights. Data from recent studies show that women who have abortions that are reported to authorities suffer institutional violence from state agents. Long wait times to receive medical care are generally accompanied by discomfort, intense bleeding, pain, fear and hunger, as uncovered in a previous survey conducted in five Brazilian states⁴. The right to patient/physician confidentiality and privacy is also violated when the professional treating a woman in an abortive state reports her to the police, or when medical records are used by the State to incriminate the woman, publishing her personal information.

In terms of public safety and justice, the right to equal treatment and no discrimination is violated, given the vulnerable profile of women typically investigated and tried for abortion: they are young, with very little schooling, very poor economic and social conditions, black, and live in urban slums. Even though they are not often condemned by the legal system, long delays

¹ This study was aided by Maria Aparecida Abreu, attorney, political scientist and professor at the Universidade Federal do Rio de Janeiro, who played an important collaborative role in data analysis and preparing the internal research report, and to whom we are very grateful.

² Article 124 of the 1940 Brazilian Criminal Code penalizes pregnant women who provoke abortions on themselves or who consent to someone else performing an abortion on them, with one to three years in prison. Article 125 sets a three to ten year prison term for those who perform an abortion on a woman without her consent. Article 126 authorizes one to four years in prison for any person who performs an abortion with the pregnant woman's consent. Article 127 allows penalties to be increased whenever a woman is injured or dies when submitting to an abortion

³ ADESSE, L. e MONTEIRO, M. Magnitude do aborto no Brasil: aspectos epidemiológicos e sócio-culturais [The scope of abortion in Brazil: epidemiological and socio-cultural aspects]. IPAS Brasil/IMS/UERJ, 2007.

⁴ SOARES G., GALLI B., VIANA A.P. Advocacy para o acesso ao aborto legal e seguro: semelhanças no impacto da ilegalidade na saúde das mulheres e nos serviços de saúde em Pernambuco, Bahia, Paraíba, Mato Grosso do Sul e Rio de Janeiro [Advocacy for legal and safe abortions: similarities of the impact of illegality on women and health services in the Brazilian states of Pernambuco, Bahia, Paraíba, Mato Grosso do Sul and Rio de Janeiro]. Recife: Grupo Curumim, 2010. Access at <http://aads.org.br/arquivos/pesquisas/5estados_final.pdf>

are common at certain stages of the criminal proceeding, and women are frequently arrested in the act while they are receiving medical treatment⁵.

Thus, women face various violations of human rights that begin when they abort under unsafe conditions, seek out public health services, and after that, are charged with a crime and enter the criminal justice system. However, there is very little research about the criminalization of abortion, and we know very little about what in fact happens when charges are filed. The scarcity of data and information is even more pronounced in the case of criminalized abortion among young women, whose cases proceed confidentially through the courts in Brazil. As this research demonstrated, obtaining information from the public safety system and the court system of Rio de Janeiro concerning abortion among young women is a complex matter, surrounded by problems involving the courts in general – errors and gaps in case records – and perhaps as a result of the fact that abortion is a crime about which no one wants to speak, because it involves taking a moral position about life, motherhood and a woman's actual condition within society.

3. Quantitative Analysis

3.1 Police database: socio-economic profile of young women accused of abortion in the state of Rio de Janeiro between 2007 and 2011

The study analyzed the police database for records of abortion in the state of Rio de Janeiro between the years of 2007 and 2011. The database suffers from a lack of information, especially in the categories of age, race and levels of schooling of the young women accused. There are also ambiguities and inconsistencies in the classification systems adopted, as is the case with the categories of "victims", "offender" and "victim-offender", which are simultaneously employed to designate the women who have been charged. In the end, each registration and classification is decided based upon the police officer's individual – moral and legal – interpretation of the fact that led to the report.

Having organized the database, a total number was reached of **334 women** charged with having an abortion in the broad sense (either an abortion on themselves or an abortion with the help of a third party). In light of the possibilities and limitations posed by the database used, below is an analysis of the characteristics related to age, race and education level of the adolescents accused, as well as where it took place, the type of abortion performed, and the distribution of occurrences by region throughout the state.

A) Age

⁵ KANE, G., GALLI, B., SKUSTER, P. Cuando el aborto es un crimen: La amenaza para mujeres vulnerables en América Latina [When Abortion is a crime: The threat to vulnerable women in Latin America]. Chapel Hill, North Carolina, Ipas, 2013.

Accessed at:

<http://www.ipas.org/~media/Files/Ipas%20Publications/CRIMRPTS13.ashx?utm_source=resource&utm_medium=meta&utm_campaign=CRIMRPTS13>

The 334 women charged were between 12 and 60 years old, in addition to many cases that did not report ages. Excluding these cases, the number reached was **54 adolescents, ages between 12 and 17 old**, charged with abortion (16% of the total, or 27.5% of the valid total).

B) Race

Information on the race of every adolescent was not available. Among adolescents who had their race designated, 45% were mixed race, 38% were white, and 17% were black. The non-whites (black and mixed race), thus, comprise 62% of the valid total.

C) Education Level

When cross-referencing a young woman's age with her education level, we see that at least 30% of the young women charged, or 43% of all of those who have reported their education level, were behind in their schooling for their age.

D) Where the abortion takes place

Among adolescents, the "residence" is where most abortions take place, making up 60% of the cases. Second place falls to "hospitals, clinics and the like", at 13%. Among adult women, although their home is still the most frequent location (44%), turning to "clinics, hospitals and the like" is much more common than among adolescents (36%). These data point to the hazards in both groups of performing an abortion at home, especially by adolescents, who most likely possess fewer healthcare resources.⁶

E) Type of abortion

Among adolescents, "abortion" or "self-induced abortion", without third party intervention, totals 72% of the cases, followed by "abortion by third parties", at 26%.

F) Distribution by precinct and regions in the state

There were 26 cases registered in the state capital, while the North and West regions, with the lowest levels of income and development, had almost all the cases reported in the city, and the South, which is the wealthiest and most developed area of the city, had just one case. Outside of the capital, the *Baixada Fluminense* region and the rest of the state had the 28 remaining cases. That may indicate that the push to criminalize abortion is greater on the outskirts of urban areas than in cities themselves.

Information gathered from the state of Rio de Janeiro reporting records from 2007 to 2011 show that adolescents charged with abortion are non-white for the most part. We found that a significant portion are behind in their schooling, which is a characteristic commonly associated

⁶ Please note that the data provided do not allow us to identify if the category "Hospitals, clinics and the like" refers to abortion clinics, or the accusations made at public hospitals that women turned to as a result of factors aggravating the abortion. Whatever the case may be, adolescents had less access to these services than adult women did.

with low-income families who generally have little to no job stability and not much access to information about healthcare or health services themselves. When you add the geographic distribution of charges throughout the state, we see that the criminalization of abortion is selective: it hits the neediest of girls who live along the margins of society. The sense that these data give us becomes clearer when we realize that most of the girls performed abortions on themselves at home, presumably without medical or psychological care.

3.2. Justice System: abortion cases involving adolescents in the state of Rio de Janeiro between 2007 and 2012

Taking the entire database into account provided by the State Court of Rio de Janeiro, we found a total of **262 cases related to abortion between 2007 and 2012 in the state of Rio de Janeiro**. These data include women and men charged of all ages.

The key limitation to the court database for research is that it is impossible to know exactly how many women were accused of having committed abortion. This is so, because people are not classified based upon their involvement, which is the same problem as the police database: witnesses (police, physicians, family members, companions), the accused (women, physicians, employees of abortion clinics, family members who aided in the abortion) and victims (women who reported having suffered physical aggression while pregnant, other people potentially and the fetus) – everyone who is involved in the case without any explanation of what role they played. In most cases, only the names are reported. Therefore, it not possible to include that every woman's name will be of a woman accused of abortion; it could be the mother or their friend, the nurse from the abortion clinic, a doctor at the public hospital who reports a D&C, or even the police who apprehended someone in the act.

Therefore, with respect to the police database, there are inconsistencies in the classification of the different women involved in the abortion, who are listed either as “victims”, or as “offenders” or “victim-offenders” in the court database. Any classification of persons involved simply does not exist. Because of this and other differences in how the two databases are organized, there was no way of cross-referencing information on abortion cases between the police and courts. As such, we have no way of knowing how many reports of abortion (police investigation phase) were effectively transformed into criminal cases (justice phase), and how many were simply dismissed.

Below we provide an analysis of the data obtained.

A) Age and sex

Of the 262 cases of abortion involving men and women of all ages in the state of Rio de Janeiro, between 2007 and 2012, **34 female adolescents were accused** of inducing their own abortion or allowing others to do so. Every year saw an increase in the overall number of cases, with a slight drop in 2012.

Table 1: Number of abortion cases annually, by age range and sex. State of Rio de Janeiro, 2007 through 2012.

Source: Court of Law of Rio de Janeiro.

Year	2007	2008	2009	2010	2011	2012	Total (%)
Men and women of all ages	22	38	45	52	55	50	262 (100%)
Female adolescents	3	7	5	8	6	5	34 (13%)

B) Distribution by the state's judicial districts and regions

We find that 21 of the 34 abortion cases involving female adolescents were assigned to courts in judicial districts outside of the capital and in the *Baixada Fluminense* region. There were 11 cases in the state capital. This confirms a trend of greater court involvement in abortion in the state's more peripheral regions.

C) Sentencing

Crimes and criminal contraventions committed by minors are called "infractions", which may be punished through the socio-educational measures as established in the Child and Adolescent Act (Portuguese acronym, "ECA" – Law no. 8069/90). In theory, the goal is to provide the young offender with a response that, though it has both sanctions and coercive aspects, is not conceived of as a penalty or punishment, but rather as an opportunity to become a part of the educational processes that seek to rebuild their lives and social inclusion⁷.

Article 112 of the Child and Adolescent Act states that the following socio-educational measures may be imposed upon adolescents: warning, reparation for damages, community service, probation, partial incarceration and incarceration⁸.

Article 113 also sets out what are called urgent-protection measures, which may be imposed individually or cumulatively, and may be replaced at any time, taking educational

⁷ Aquino, LC. Criança e adolescente: o ato infracional e as medidas sócio-educativas [Children and adolescents: the infraction and socio-educational measures]. In: *Âmbito Jurídico*. Rio Grande, XV, n. 99, April 2012. Available at: http://www.ambito-juridico.com.br/site/?n_link=revista_artigos_leitura&artigo_id=11414

⁸ The warning is a verbal admonition, which is then given in written form and signed (Art. 115). Reparation for damages refers to any offense that involved property, whereby if such is the case, the authorities may order the adolescent to return something, repay the owner, or otherwise, compensate the harm caused to the victim (Art. 116). Community service consists of rendering general service tasks to the community free of charge, for a period of no more than six months, through social assistance, hospital, school and other similar establishments, as well as through community or governmental programs (Art.117). Probation will be used when it is clearly the most appropriate measure to accompany, assist and guide the adolescent, and will be for a period of at least six months, and it may be extended, revoked or substituted at any time by another measure (Art. 118). The partial incarceration system may be ordered from the very beginning, or may be part of the transition to freedom, with the possibility of performing activities in the community, independent of judicial authorization (Art. 120). Finally, incarceration is a measure that deprives one of their freedom, and placement at an institution specifically for adolescents. This measure is to be implemented for a brief period of time, is considered exceptional and respects the particular conditions of the young person (Art. 121).

needs into consideration: release into the custody of their parents or guardians; temporary measures to provide guidance, support and follow-up (which consists of a series of interviews with a social worker and/or psychologist, with the goal of obtaining a preliminary evaluation and guidelines); official primary school enrollment and mandatory attendance; enrollment in a family, child and adolescent assistance program; medical, psychological or psychiatric treatment; enrollment in programs to help, instruct and treat alcoholism and drug addiction.

A reprieve⁹, which is a type of “pardon”, is the one most commonly used for adolescents accused of abortion, having been applied 14 times in the 34 cases. In second place are the decisions to officially close the case (six occurrences) for reasons unknown to us. Six cases were thrown out. The socio-educational warning method was applied in four cases. Therefore, from a purely legal point of view, the measures adopted are not considered harsh.

However it is important to point out that the criminal process itself is harmful to the accused, which goes well beyond any penalty or socio-educational measure. Throughout the entire process, the accused may suffer social sanctions that have nothing to do with the law. For example, they may encounter difficulties in getting a job by virtue of their criminal record (“having a rap sheet”). Court officials coming to their home may cause embarrassment with their neighbors, or even the risk of retaliation, in the case of people who live in zones of conflict, where state security forces and drug traffickers face off, which is common in Rio de Janeiro. Above all, the physical exam, criminal investigation, and processing of the case itself may further aggravate the traumatic and stigmatizing process that surrounds abortion cases¹⁰. The qualitative analysis of cases allows a better assessment of the impacts that making abortion a crime has on the life of the young women who have been accused.

4. Qualitative analysis of abortion cases before the Juvenile Court System in the state capital district (2007 - 2012)

With the goal of delving deeper into the criminalization of abortion, we analyzed every case brought before the Juvenile Court System in Rio (“VIJCAP”) for abortion involving female adolescents, assigned between 2007 and 2012. We wanted to learn how private events

⁹ Article 126, establishes the *reprieve* as a form of exclusion, suspension or closure of the case started to investigate the juvenile infraction, with the goal of attenuating the negative impact had by formalizing or continuing the proceedings, as for example, the stigma of sentencing, which may potentially arise by a minor’s criminal background, which registers the application of any socio-educational measure.

¹⁰ For simple informal comparison’s sake, we researched online approximately 75% of the sentences related to adult men and women involved in the crime of abortion. We discovered that although no adult woman had actually been condemned to prison, many of them were arrested in the act and jailed before trial. Conditional suspension of the case is what most frequently happens with adult women accused of abortion. Suspension is an alternative resolution of criminal issues, which seeks to avoid starting cases on crimes, the penalty for which would be less than one year, when the accused is not a repeat violent offender, and is not being charged with any other crime. In exchange for suspension, the accused needs to comply with other measures, like community service, and monthly visits to the court’s office for a certain period of time. We have heard that in some cases, this suspension involves community services in hospitals or clinics that serve newborns, in then causes this measure thus assumes explicitly moral punitive nature. To learn more, please visit <http://brasil.elpais.com/brasil/2014/03/08/politica/1394233682_799796.html>

become public, and how something that enters the safety and justice system “becomes a crime”. We also wanted to see the trajectory of the investigation and how it moved through the justice system, with special attention to procedures, arguments and decisions made by legal system agents. Specifically, by studying case records, we sought to reconstruct the socio-economic profile of the adolescents accused, the intricate network of close relations that surround the abortion itself, and then publicizing it, and the possible impacts this criminalization has on the life of these adolescents and their families.

The head of the records department that is overrun with cases provided all abortion cases that were on file, and arranged to have the rest retrieved from storage. From the beginning we were told that there were very few cases involving abortions. Notary office employees had the same observation: abortion was not the most common crime, nor was it even the most surprising they had contact with. Almost all of the district’s cases involved young people accused of theft, robbery, bodily harm, and primarily drug trafficking

Of the 20 cases in the court’s database related to abortion, seven involved other crimes (robbery, theft, bodily harm, etc.) that had nothing to do with abortion. That indicates a rather high error rate in the database with respect to classification of the crime. One case involved a male adolescent accused of abortion without the consent of the pregnant woman, his former girlfriend, who was also under age. Finally, the 12 remaining cases were for adolescent females accused of abortion. Of these, two could not be found at the court. So we then had access to 10 abortion cases. There are few cases in absolute terms, but it should be noted that all the cases were analyzed.

Below is a summary of each case, with the respective individual analysis. At the end, we provide a comprehensive interpretation of the cases, and what conclusions could be drawn from the records and the routine observed at the VIJCAP.

Case 1

Adolescent: Rosa ¹¹

Crime: abortion (art. 124 of the Criminal Code)

Date of occurrence: 08/09/2003

Identification: 15 years old, white, single, student

Residence: North Zone of Rio

Location of the crime: residence/hospital

Time between when the crime was reported and sentencing: 3 years and 10 months

The abortion was reported by the medical staff at Herculano Pinheiro [Hospital], where the adolescent had been taken by her mother, unconscious, after having ingested Cytotec at home. The drug had been obtained from a school friend, only identified throughout the case by her first name. Neither Rosa’s mother nor her boyfriend knew she was pregnant, and she was afraid of telling either one. Rosa’s mother worked as a housekeeper and was away for most of the day, while her daughter cared for her 7 year old brother. Rosa’s boyfriend is a neighbor, and according to what her mother stated in her deposition, “he was the first one who had been intimate with her [minor daughter]”. Mothers’ concerns about their adolescent daughters’ sexual reputations are a recurring theme in the cases analyzed, as we shall see.

¹¹The names of all persons involved are pseudonyms. Addresses and other identifying information have been omitted.

The medical chart for the girl appended to the case is rather detailed, describing various exams and procedures performed. This was a specific record, titled “Hospitalized while miscarrying”, which indicates the quotidian nature of this type of event at the hospital, and the adoption of standardized treatment procedures. One note – “we are attempting to contact the police department to report the case and file a police report” – reveals that the medical team possibly believes that notification of the fact to the police is a standard or mandatory procedure.

After many delays and exchanges between the police department and public prosecutor, to finalize the many different parts, the young woman was finally deposed by the prosecutor’s office after she had already passed the age of adulthood. Pregnant for a second time, and manifesting her desire to have this child, she claimed she regretted the abortion she had in the past. The prosecutor opined that the crime is “of lesser seriousness” and recommends a reprieve, which the judge accepted. Between the time that the crime was reported and the final decision was made, 3 years and 10 months had passed.

Case 2

Adolescent: Anita

Crime: attempted abortion provoked by a third party (art. 126 of the Criminal Code along with Article 14 of the Criminal Code)

Date of occurrence: 01/02/2007

Identification: 14 years old, white, single, student

Residence: favela in the South Zone of Rio

Location of the crime: residence/hospital

Time between when the crime was reported and sentencing: 4 days

The abortion attempt was reported to authorities anonymously, when the adolescent, accompanied by her mother, was treated at Hospital Geral de Bonsucesso. The mother realized her daughter’s period was late, and when she looked into what had happened, she realized that the girl had been raped by her husband (the girl’s father). Out of desperation, she sought to acquire the drug Cytotec to make her “period come”, with her daughter’s consent, who, traumatized by her father raping her, did not want to have the baby. However, the abortion didn’t work, and the attempt just caused her to go into labor early. The baby was born three months prematurely. The anonymous report was related to the rape the girl had suffered, but it also ended leading to charges of an abortion attempt.

Once the case was underway, temporary guardianship of the girl was given to her maternal uncle, because her mother had been arrested in the act, and an investigation was ordered into the rape by the father, who was missing. The prosecutor decided that the adolescent had not committed a crime – but her mother was charged and the case began – and reprieve was requested, which the court accepted that same day. The case against the adolescent was concluded and dismissed in just four days.

This family tragedy intertwined with this also involves two children – one age seven and the other age one – and it seems as though the professionals involved in this case understood that the speed with which this case was resolved, acknowledgement that this was a crime in a dysfunctional family environment, and the description contained on record of the arrest in flagrante delicto (below) all demonstrates this.

(...) Maria explained that she did not know how far along her daughter Anita's pregnancy was, and she imagined it wasn't too far, and that all she wanted was for her "daughter to menstruate", so that she didn't give birth to her own father's child.

She explained that the father fled as soon as she found out what happened, affirming that at no point had she failed to protect her daughter. She also claimed that the father had been in trouble for theft (article 155, paragraph 4, IV Criminal Code).

Finally, she explains that she only acted this way because she was desperate.

After both mother and daughter confirmed the attempted abortion, the police were left with no other alternative than to file this report AAAPAI/APF. However it is noted that Maria was in a truly bad place emotionally – it is not hard to imagine the shock that all of this has caused. Also of note is her lack of education, which means that she is unaware of what legal steps may have been taken to legally abort (in the event of a rape).

At the police department, Maria was rather concerned about what would happen to her daughter Anita, who only stated that she wanted an abortion because the child had been the result of when her own father raped her, and that all of this was brutally traumatizing. She was also fearful about what would happen to her other children, ages seven and one, as well as her newborn grandson, who would be unprotected if she went to jail, especially since their father was on the run.

Furthermore, the minor child, Anita, who was still recovering at the hospital, is reported to be very upset, and the preparation of this AAAPAI, although done in strict attention to the application of article 124 of the Criminal Code, merits further analysis, including with respect to its animus.

Emotional support was provided to Maria as this APF got underway by her brother João, who will temporarily take custody of her children tonight.

These facts as narrated in this AAAPAI/APF characterize a true family tragedy that will certainly leave those involved emotionally damaged. We recommend that psychological services be provided, especially to the minor, Anita.

In addition to what appears directly from the case record, what one finds is that this case, though everything was done to protect the girl, led to undeniable harm. In the case files, you find an enormous photograph of the girl wearing a dirty shirt, wet around the nipples, indicating that she was producing milk. Case files also indicate that the adolescent was in a daze – she had just come through a premature and unexpected birth, and once again had to re-live her father's rape - she had no idea how to act or what to do within the judicial process. However, she had to remain alert, therefore, susceptible to additional trauma. The mother, offender and also victim of this desperate situation, the courts equally accuse and remove her from a situation where her presence is necessary in any attempt to restore some emotional balance, to help care for the premature infant, and if for no other reason than to help the girl understand what had just happened. The women were penalized in every way possible.

Case 3

Adolescent: Iris

Crime: threat (art. 147 Criminal Code) and abortion (art. 124 Criminal Code)

Date of occurrence: 07/04/2007

Identification: 16 years old, white, single, student

Residence: Centro (city center)

Location of the crime: resident

Time between accusation and sentencing: 11 months

Iris was accused by her own mother of getting an abortion, and then in turn also accused her of making threats.

What can be gathered from case records is that the mother had been unhappy with her daughter's behavior, and suspected she was working as a prostitute. After she saw a bucket in her own home, filled with her daughter's underwear, covered in blood, she concluded that her daughter had induced an abortion and decided to report the crime to the police.

Iris' summons, prepared by a court clerk, demonstrates the clerk's concern with the potential harm the actual case will have on her. The minor lives in a community that was recently occupied by public security forces, and the clerk notes the possibility that these charges may lead to some retaliation against the girl by local drug trafficking gangs.

The investigation begins with the minor's statement. She arrived to give that statement with the baby, who was only 20 days old, which indicates that the alleged crime did not occur, since the pregnancy was brought to its natural conclusion with a birth. The child was only registered with the mother's name. Iris reports that she was only with the child's father for a week.

In this case, the mother's marked concern about how her daughter will be judged from a moral standpoint is seen in her deposition:

According to the mother, she went to the police station because her daughter hadn't been home for three days. Her daughter's behavior changed when she met Geni's daughter. [Geni] gave her daughter too much freedom. Her daughter began to spend a lot of time at the aforementioned's home, who began to encourage her to run away. When she went to the police department, she was escorted by the police to Geni's home, and together with the police she realized her daughter was in that house with eighteen men. At that time, she didn't know that her daughter was pregnant, but she was terrified when she went into her home and in the bathroom she found a bucket filled with a red liquid, and after observing her daughter's behavior, she realized she was pregnant. Geni had tried to teach her daughter how to induce an abortion, she was unsure and quite afraid. That as a consequence of the birth of her grandson, there were problems at school with her children. Her children had become the subject of ridicule. Her daughter was tormented and her son had to listen to Geni's daughter tell stories and invent lies at school about what his sister had done of a sexual nature.

The adolescent, for her part, was quite natural about her own sexual behavior. The testimony given to the State Prosecutor by Iris and her mother states:

That she is 17 years old, (...) white, born in RJ, she has four brothers, and no identifying birthmarks; she has never used drugs, she has never been treated for drug use, she has never been involved in drug trafficking, she has never used or carried a weapon. She is single and has a 3 week old son. She is in the seventh year of primary school. She doesn't work. She lives with her mother, stepfather, siblings and son at Rua..., where the military guards currently control the area. The fact took place on 07/02/2007 around 6 pm, (...) that the facts as narrated in the charges are untrue, that at the time she thought she might be pregnant. She spent days away from home, which caused her mother to be upset. That at no point during her pregnancy did she attempt an abortion, with the birth of her son able to be proven by a copy of the attached birth certificate; that her son is the result of a relationship that lasted a week, at that time she was away from home, staying with friends; that she only told her mother when she was five months pregnant. She used to go to the home of a woman named Geni, and that many men also visited Geni, and she even [had sex] with one at Geni's house, and with another person she met through Geni's daughter, Madalena – who is 12. She never saw Geni offering sex services for men, and that includes the deponent. Geni's daughter had sex with men in her mother's home. She could not say for certain if the house was a brothel, but many men spent time there, and sex was taking place. That the bucket her mother mentioned contained clothing (underwear and pants) that she had been using and were stained because she had started her period. This is the first time she has had any contact with this court, and the deponent is aware she may receive the measure of reprieve, and there is no opposition to that being attached to a measure that does not restrict her freedom.

In this case, what stands out is the mother's role in the proceeding. She and her daughter were antagonistic to one another, and the mother, in an attempt to control her daughter's sexuality, sought to minimize the moral consequences of the stigma of alleged prostitution, and fearing the crime committed, went against her own daughter, judging her and threatening her, and telling the police about this alleged crime she had committed. Morality, fear and judgment together aggravated this large family that lives in a community that suffers from drug trafficking and the tensions this causes with the arrival of security forces.

Case 4

Adolescent: Simone

Crime: abortion (art. 124)

Date of occurrence: 08/09/2008

Identification: 17 years old, mixed race, single, student

Residence: favela in the Northern Zone of Rio

Location of the crime: residence/private clinic

Time between when the crime was reported and sentencing: 2 years

The case was reported nearly three years after the event that gave rise to it, and appears to have been a "bust" at Policlínica J., a clinic located in the city's North Zone. The case began with reports of abortions on third parties, allegedly by Doctor C., and reports of mistreatment by the girl's parents, who had brought her to the clinic for an abortion. However, through the investigation, one finds that the adolescent had already performed the abortion before she went to the clinic. Her presence at the clinic was due to an attempt to treat the damage left by the abortion. After she spent time at the clinic, Simone fell ill once again and was transferred to Hospital Getúlio Vargas (HEGV). It is not clear how the police investigation began, but the HEGV medical charges are used as proof that Simone had an abortion and are attached to the case.

For the case, depositions were given by Simone, her father and mother, physician and boyfriend, and have been transcribed below:

According to Simone, in July of 2005, she found out she was pregnant and began to take "herbs sold at market" to abort the child she was expecting. But the herbs just made her sick and on 10/21/05, she had to tell her parents what had happened and go to a hospital. At first, Simone tried to be seen at Hospital Geral de Bonsucesso, but while she was waiting to see a medical professional, someone she didn't know who was also waiting told her to go to Policlínica J., located at... and based upon that tip Simone says her parents took her to Policlínica J., where she was seen by Dr. C., (...) a place where, after paying R\$ 1,200.00 [equal to US\$ 546], the child that she was carrying was aborted. It so happens that after the abortion and subsequent release from the Policlínica, Simone became ill, which was why she had to go to Hospital Getúlio Vargas.

Later on, [Simone's father] provided an explanation at the police department, where he confirmed what his daughter had said, and added the following: that after his daughter had been seen at Hospital Geral de Bonsucesso, she continued to feel poorly and was in a great deal of pain and bleeding vaginally, which is why they took her to Policlínica J., and he left the girl there in the company of her mother, and that it was at this Policlínica, he was told that the abortion had been necessary, because in addition to the likelihood that the child would have birth defects, or there might be problems with the actual birth itself, his daughter's own life was in danger. As such, he had to get R\$ 1200.00 (R\$ 1000.00 had been obtained from the daughter's boyfriend), which was given as

payment for the abortion. A few days after the abortion, his daughter once again fell ill and had to go to the hospital HEGV.

On a later date, Simone's mother gave a statement. Summarizing, she said the following: that after she found out her daughter was pregnant, and that the girl had consumed herbs to end her pregnancy, she took Simone to HG de Bonsucesso, where she was seen. That while they were waiting, she was told by someone she didn't know to go to Policlínica J.. That once they were home, her daughter began to feel a great deal of pain, and given the potential risk to her daughter's life, she and her husband took Simone to that Policlínica, where, after they collected the R\$ 1,200.00, the abortion was performed. That Simone's boyfriend had given R\$ 1,000.00, and Simone's father had paid R\$ 200.00. That days after the abortion Simone once again fell ill, and that is why she was taken to HEGV, where she received treatment.

In light of the information given above, Simone's boyfriend's statement was then given, who in turn said the following: That he began to date Simone in 2004, and she only got pregnant in 2005. That on a certain day in 2005, he found out that Simone had been taken by his "father-in-law" to the hospital and that Simone would undergo an abortion, not just because of the risky pregnancy, but also because the baby she was carrying would be born with health problems. That the price of the abortion, according to Simone's father, was R\$ 1,200.00. That the declarant, who didn't want Simone to be sick, gave the father R\$ 1,000.00. That days after the abortion, the deponent found out that Simone, owing to complications arising from the abortion, had to be admitted at HEGV.

Finally, testimony was given by the doctor who ended Simone's pregnancy, who at the police station said the following: That the deponent performed the abortion, and had charged the price of R\$ 1,200.00; That Simone arrived at his clinic along with her parents. That Simone had consumed a large portion of an abortifacient. That the deponent performed a physical exam on Simone's abdomen and found her to be in a great deal of pain, with the base of the uterus being below the navel. The use of an ultrasound demonstrated that there was no fetal heartbeat. That after the abortion Simone was advised to spend 15 days resting at home.

In the court case, given the amount of time that passed between the event and the proceeding, all the evidence was deemed impaired, leaving only the social study done by the court's team of social workers:

SOCIAL STUDY

To the Honorable Judge

This Social Study was prepared using the interviews with the young woman and her father as tools, with the goal of standardizing information concerning the social dimensions that circumscribe her daily life, observing the most significant questions.

Please note that Simone attended all of the meetings scheduled with her social workers, and she clearly takes care of herself, comports herself respectfully, and was eager to collaborate.

I – Socio-economic and cultural context

In terms of family structure, Simone reported that she lives with her father, brother, sister-in-law and two young nieces, at a home located at the aforementioned address. Simone's mother apparently died in 2007.

The family dynamic described shows that Simone sees her father as being responsible for the family's organization, and he is helping Simone deal with questions relevant to her age range.

The family's socio-economic status is rooted in the informal economy. The family's monthly income comes from the father's job as a truck driver, and the brother's job as an awnings assembler.

With respect to Simone's socio-educational status, she studies in the public school system. She presented a declaration that she is enrolled in a state high school, and is taking night classes for her first year of secondary school.

With respect to professional training, she said she had taken a telemarketing class, and her certificate of completion was presented.

Currently, she is finalizing formal employment at a Perfumery Company... working as a production assistant, receiving a salary of R\$ 490.00 [equal to US\$ 223].

With respect to questions related to her health, Simone did not report any significant other issue after the situation that brought her to the court's attention in the first place.

For documentation purposes, she presented her birth certificate, individual tax ID card, identification card and voter registration card.

II – The Violation

With respect to the situation that brought her before this court, the girl's story remained consistent with what is described in the prosecutor's records, registered on pages...

The father was concerned and critical of the situation that took place. He described Simone as a calm child, one with whom he could negotiate and that he maintained authority. He believes this was an isolated act, and that as of that point, the family was unable to calmly reflect on the act, because of the risks associated with the pregnancy.

As our meetings went on, we reflected on question of citizenship, and the rights and duties held by citizens, including the responsibility and consequences of quotidian acts. We emphasized those related to healthcare.

Technical opinion

The young woman in question, 20 years old, responding to the allegation of a violation analogous to article 124 of the Criminal Code. Her story remained consistent with what is described in the prosecutor's deposition on record pursuant to pages...

When we analyzed the family structure, we found that Simone lives in a single-parent household with her father, and her father is tasked with providing daily guidance and supervision. We found that the family dynamic supports her with respect to issues that are related to her age range.

In light of the foregoing, we find that the young woman in question has demonstrated critical thinking skills, as well as remorse for the situation that brought her to the court's attention, and this appears to be an isolated incident in her life. She is completing a satisfactory investment in her schooling and professional training. That is all we have to report.

Submitted for this court's approval.

Thereafter, a social report was prepared:

Social Report (to ascertain whether there is a need for psychological treatment)

To the Honorable Judge

This report was prepared based upon the determination that the social study should be continued. We should explain that we are responsible for performing the study, after the technician who was initially tasked with the study was transferred to another institution.

The young woman attended the scheduled meetings and was respectful, attentive and interested in the instructions provided. Based upon this information, we found that there have not been significant changes with respect to her place within her social reality.

She states that her nuclear family currently comprises her father and older brother, and that the family's earnings are divided among different members. Simone has in the past been gainfully employed, and she is currently starting to work under the Projeto Justiça Pelos Jovens [Justice for Youth Program] at this court, which she was referred to by this Social Service.

The young woman continues to attend school and is in her second year of secondary education at the school.... She understands that she needs training to be prepared for the job market.

Today she keeps busy by helping out at home, does her homework and participates in the project. She understands that they are important for building and organizing the project of her life, which includes how her own family is put together.

She states that she thinks about how she will reach her personal growth goals, and understands how her participation in the aforementioned project will improve her working conditions, and possibly improve her professional opportunities.

In light of the foregoing, we believe that this young woman has a life established that is compatible with the start of an adult life, and she has the necessary support of her family to take part in society, which will allow her to enjoy her life's work. We don't believe that any additional technical-professional intervention is required.

Submitted for your approval

A case was started to investigate the crime committed by the doctor, who has a rather extensive criminal record related to abortion.

It can be seen in this case that starting with the doctor's medical chart and the story as narrated, mainly by the young woman's parents, the abortion was treated somewhat naturally by the parties involved: the father openly reported the abortion on the medical charge. An unknown person in the waiting room indicated the clinic where the abortion took place. The doctor admitted to the procedure and said it was necessary, and evidently routine. If it were not for the investigation three years later, the event would not have been reported to the police, and much less would have ended up in the court system.

The role the girl's family played is remarkable: there is unity and support at all points in the decision-making process. The mother was the first who became aware of the abortion started by the young woman, and from that point forward, all of the concerns held by the parents and boyfriend were with the young woman's well-being.

The handling of the case within the court system sought to protect the adolescent: please note that the case began with the report of poor treatment by the adolescent's parents and not concerning her culpability. All of the case documents led to the conclusion that the professionals involved in this case understand the situation. But to an extent, there appears to be a certain acquiescence from a legal point of view, to the institutionalization of means of controlling and normalizing this young woman's professional, sexual and reproductive life, of which the social study reports prepared by the team are examples.

Remaining in school, professional training, work, a desire to have a family in the future, the "caring for her health", exercising a type of "citizenship" that does not just demand rights, but rather the assumption of duties and "responsibilities" – elements present in the technical pinions – translate normative ideals that evidently would define a normal life, that is "positive" and desirable for a young woman, at that point, 20 years old. The abortion is never specifically named, and it always needs to be denied or pushed away: the abortion performed is "regrettable" and an exception ("an isolated act within the family") and risks of future abortions are controlled (by the father's "authority", by the "responsibility" that both hold).

In this idealistic-normative model, the pregnancy is always defined negatively – as a risk to be avoided. At no time is the young woman's own volition given weight, which could potentially include other ideas and "life projects", which may eventually include a pregnancy. Along those same lines, the young woman's sexual life is never portrayed positively, which could include pleasure and autonomy.

Case 5

Adolescent: Janaína

Crime: abortion (art. 124 of the Criminal Code)

Date of occurrence: 08/10/2008

Identification: 14 years old, mixed race, single, student

Residence: North Zone of Rio

Location of the crime: residence

Time between when the crime was reported and sentencing: 2 years and 3 months

Janaína was impregnated by her boyfriend Sérgio, who is 52, and decided to terminate her pregnancy. On her own, she took the medication Cytotec and expelled the fetus at the home of her sister and brother-in-law. With their help, they put the fetus into a plastic bag, placed it in a shoe box and delivered it to her boyfriend's house. When he receives the package, he notifies the police.

The case files are rather shocking. There is a very prominent photo of the adolescent. There is a technical report, performed by the Forensic Science Lab requisitioned by the police deputy, with two photographs: one of the shoe box nestled into a tree; and the box with a bloody fetus inside. The report was made three hours after Sérgio notified the police. According to the statements, the box had already been opened before the police arrived, but the original scene was probably staged for the photo session.

The forensic medical report proves that an abortion took place, based upon the amount of blood, as well as Janaína's statements.

From Janaína's deposition, this part is worth note:

(...) she expelled the fetus in the bathroom at her sister's house, who was unaware of that fact. That the deponent was very upset about the situation, and since it was Father's day, she decided to take the fetus to Sérgio. That she put the fetus into a shopping bag, and then put it into a shoe box, asking her sister and her husband to drive her to Sérgio's house. That when she arrived at Sérgio's apartment, she rang the doorbell, and when he answered, she handed him the shoe box and said "Happy Father's Day", turned around and left. That was the first abortion she had, and she knew it was a crime. That she didn't know what Sérgio did with the fetus. That when she met Sérgio and had sex with him, she was 14 years old and he knew that.

In her court deposition, Janaína was already 17 years old, and was accompanied by a newborn child. She stated that she is a heavy drug user, and confirms the previous report. When the floor was given to the defense, they asked no questions. The prosecutor recommended the penalty of reprieve for the adolescent, with a warning¹² as a way of dismissing this case, which the judge accepted. On 12/09/2010, the ruling was made to dismiss the case.

The entire case has a dramatic air about it, which is seen through Janaína's behavior. She appears to try to blame her former boyfriend at any cost, she tries to share with him the misfortune of having to end her pregnancy, as well as trying to hold him responsible for the end of their relationship, forcing him to observe the concrete effects of that relationship. At no point does she seem to imagine or calculate his reaction or the potential harm that she could suffer as a result. Janaína gets reported to the police by the person she saw as her accomplice, or even the main wrongdoer.

The court appears to recognize how complex this case is and only lightly punished the girl. Although the case is shocking, given that the fetus was staged to give the appearance of a baby in a shoe box, there also appears to have been a certain effort, shown in all of the reports prepared by court professionals, in demonstrating a certain indifference to the facts or to minimize them, in order to then apply a lighter sentence. The report that the girl is a heavy drug user, motherhood under these conditions (elements that only appear in the final hearing) and

¹²The warning consists of signing a standard form whereby the adolescent and their guardian state their awareness with the fact that the adolescent should not commit any violations, that legislation does provide for their imprisonment, that the same conduct will be considered a crime once they reach the age of adulthood, that they should attend school, live with their guardians and not use illegal drugs, and seek assistance from specialized agencies and services.

the fact that the alleged father of the fetus is so much older than the accused, may have all acted to attenuate her punishment.

Case 6

Adolescent: Domitila

Crime: abortion (art. 124 of the Criminal Code)

Date of occurrence: 09/07/2008

Identification: 17 years old, mixed race, single, student

Residence: West Zone of Rio

Location of the crime: Not applicable

Time between when the crime was reported and sentencing: 1 year

The case begins when Domitila accuses a friend of defamation. According to the charges, this friend had been spreading a rumor that Domitila had had an abortion. As the case unfolded, defamation was not found to have occurred, because the friend really did hear from Domitila herself that she had drunk an “abortion tea”. Thus, an investigation began into the abortion.

Domitila claims various conflicts and fights with her friend, because both of them spread “rumors” about the other’s sexual life. In the case, Domitila claims she was a virgin at the time the alleged abortion took place, using a medical report from the time. The document is not a report or a proven clinical exam, but even still is used by the prosecutor to request that the case be dismissed, arguing “there are no indications nor any evidence that a crime took place, nor that [Domitila] is a criminal”.

In this case, one can see that it was the adolescent herself who gave rise to the report of an alleged crime she had committed. The amount of morality regarding gender, stigma and accusations between friends that sought to protect their sexual reputations ended up in court, and was only resolved with a shortage of evidence or the irrelevance of the alleged crime.

Case 7

Adolescent: Dandara

Crime: abortion (art. 124 of the Criminal Code)

Date of occurrence: 03/16/2010

Identification: 17 years old, white, single

Residence: West Zone of Rio

Location of the crime: abortion clinic in the *Centro*

Time between when the crime was reported and sentencing: 2 years and 2 months

A complaint was lodged that there was an abortion clinic in the *Centro* region in downtown Rio de Janeiro. Two officers entered undercover asking to have an abortion and caught everyone in the act. Dandara was at the clinic. According to information from the case, an abortion cost R\$ 600.00 [US\$ 273].

The following information was obtained from the girl’s statement: she was a student and two months along when she had the abortion. She knew abortion is a crime, but she did it anyway because she could not afford to raise a child. She didn’t use any birth control, because she was afraid it would make her fat. In the actual abortion, she was given a shot and doesn’t remember anything after that.

Dandara did not show up for her Social Study meetings. At the hearing, she had already reached the age of adulthood and was still studying, however was quite delayed for her age. She stated she had six siblings, that the facts in the case were true and that she really was incapable of raising a child. She further reported that she suffered no health problems following the procedure.

Her public defender argued that the facts as portrayed did not take place, and asked for new witness testimony.

Upon the case's conclusion, the following ruling was made:

"The respondent's infraction is not serious, and there are no larger consequences. At this point, I find the illustrious prosecutor's suggestion quite reasonable, to sentence the offender to a social-educational warning. That said, I hereby find for the state, and sentence the adolescent, Dandara, to a social-educational warning".

What is notable about this case is that, although the offender had confessed to the crime, the public defender continued to allege that she was innocent of the charges.

Case 8

Adolescent: lara

Crime: abortion attempt caused by third party and abortion (art. 124 of the Criminal Code)

Date of occurrence: 02/05/2009

Identification: 17 years old, mixed race, single, student

Residence: West Zone of Rio de Janeiro

Location of the crime: motel

Time between when the crime was reported and sentencing: 3 years and 6 months

Mother accused her daughter's boyfriend, Ramon, 50 years old, for an attempted abortion at a motel, without the pregnant woman's consent. As the case went on, it was discovered that lara also took drugs willingly.

The mother confirmed that lara was six months into her pregnancy. She said that her daughter worked in someone's home (as a nanny) and that they did not spend much time together, and that is how lara was able to keep her pregnancy hidden from her mother. She didn't know that her daughter was dating a "much older man" and was terrified when she found out that the boyfriend had tried to abort the child. She was told that lara "was forced on two separate occasions to ingest the drug, and it was only a miracle that the miscarriage did not happen".

lara stated on record that she got pregnant by Ramon "because she wanted and wished to have a child", that "she didn't want to interrupt her pregnancy, but Ramon put a lot of pressure on her" and that "she was afraid of him, because he was always armed". She alleges that "she resisted Ramon's pressures a great deal and it took her two months to ingest and consume Citotec, which she did at home". lara became ill, and "because she didn't miscarry, Ramon didn't believe that she had taken the pills and forced her to take two more, and to consume two more, in front of him, which they did at a motel". At that point she was three months along and she still didn't miscarry. They continued to date until she was in her fifth month, when Ramon showed up to see lara with his wife. Her son was born at 42 weeks (9 months), but died a month later. lara claims that three weeks after the birth, she felt contractions and went from hospital to hospital seeking assistance, but she was turned away from each one, because they were full. She stresses that her son "was perfect when he was born, he only died because his

delivery was after her due date". The copy of the death certificate proves that the cause of death was "septic shock, neonatal sepsis, acute asphyxia". After the fifth month of her pregnancy, lara never saw Ramon again, "who never offered her any type of assistance".

On the other side, Ramon denies the accusations. He claims he never had a relationship with lara, that he had just met her one night at a bar, where she was inebriated and asked him for a ride, which he gave her. He says that "everyone knew" that lara had a boyfriend, but even still, she "hit on him". He claims that they had sex twice at a motel, and that he "used a condom during vaginal penetration, but the sex act always ended with fellatio, without a condom, and he ejaculated into lara's mouth, because that was the type of sex she liked". He distanced himself from lara, and she ended up calling him 116 times in a single day, in addition to "sexual messages" like, 'Mo, I dreamed that I had swallowed your entire cock'. His wife found all the messages and "was instructed to register a complaint against lara, that she was making threats, however Ramon asked his wife to drop everything and forget about it". He "is absolutely sure that he didn't get her pregnant". He alleges that "he never saw her pregnant, and if she got pregnant, it was certainly by another man". According to Ramon, "lara even said to him that she had already had an abortion before, and that one of her aunt's had acquired the drug Cytotec for her". In a new statement, Ramon added that he did have a registered weapon, but that it was left at home, because he did not have a concealed carry permit.

Neither lara nor her parents attended the scheduled studies and new depositions.

lara's mother wrote out her own statement, claiming that she had no contact with her daughter, and did not know where she lived. She said she only had her cell phone number, and she only answers her daughter's calls "when she feels like it". She finished by saying, *"I am not careless with my children, but my daughter's rebelliousness has torn us apart. I feel like I cannot help her, because this has to do with her, and she's the only one that can do anything about it"*.

The adolescent did not attend the hearings and the case was dismissed.

This case is noteworthy for the way in which the adult co-offender attempts to disqualify the adolescent, giving the impression that his behavior, in this situation, is justifiable owing to the sexual behavior of his former partner, and his status as a married man. The mother's likely attempt to punish him ends up turning into an accusation against her daughter, and publicizing her sex life and supposed sexual preferences in the case.

Case 9

Adolescent: Fernanda

Crime: attempted abortion (Art 124, along with 14, II, both from the Criminal Code)

Date of occurrence: 04/08/2009

Identification: 16 years old, black, single, student

Residence: West Zone of Rio

Location of the crime: the home of her boyfriend's brother (West Zone)

Time since the Occurrence: No sentence handed down yet

The crime was reported by Fernanda's mother, who was unhappy with her behavior and fearful of potential harm to her granddaughter caused by the attempted abortion. She told the police of what her daughter, her boyfriend and his brother had allegedly done.

At the police station, Fernanda stated that she spontaneously and of her own free will had sex with Hugo. When she suspected she was pregnant, she took an abortifacient at Hugo's brother's house, but she did not miscarry. She was taken to a public hospital. At the time her statement was taken, she was about six months along and had not received any medical attention. The forensic medical exam did not prove that an abortion had been done.

As the case went on, the child was born without complication, and a paternity exam proved that Hugo was not the child's father. In a new statement, Fernanda named another man as the father of her daughter and reports that Hugo is married. Witness stated that the adolescent is a "liar".

On 07/20/2010, Fernanda's mother states:

That she appeared at the police station to explain that at the time she made the report because she thought that her granddaughter may be born with a deformity, however the child is already a year old and in perfect health. That even being told that there is no way for her to dismiss the criminal case, she expressed her desire that it not move forward.

After that, Fernanda did not show up for the social study meetings or at any of the hearings scheduled. A warrant compelling her to appear was ordered, but her address is unknown.

What is noteworthy in this case is the mother's behavior. She was concerned about her granddaughter and was potentially trying to control her daughter's sexual behavior, and she does not seem to be aware of the consequences of reporting her daughter to the police, or she just does not care about putting her daughter's freedom at risk, or about sharing details of her sex life. Based upon the statements taken, you can see that Fernanda was at peace with her own behavior, and she claims that she started having sex of her own free will and volition.

Case 10

Adolescent: Judite

Crime: abortion (art. 124 Criminal Code)

Date of occurrence: 08/03/2012

Identification: 16 years old, mixed race, single, student (3rd and final year of secondary school)

Residence: West Zone of Rio

Location of the crime: Resident

Time between when the crime was reported and sentencing: Pending sentencing

The police received information that Judite's boyfriend was allegedly holding her against her will. The police then visited that address to ascertain what was going on:

"On 03/08/2012, military police officers F. and O. arrived at this unit, both assigned to the [...] Battalion, and state that they had been ordered by patrol operations to go to the address [Rua...], where according to information received, inside was a 16 year old minor, Judite, along with her boyfriend, Ronaldo, 22 years old, who lived there. Judite and Ronaldo had been dating for approximately 15 months. The request for the police to visit the home was made by the minor's parents, because she was not going to school, instead she went to her boyfriend's house, and that Judite was being held there against her will. That did not appear to be the case, and the young woman told the military police that in reality, she had ingested a drug called Citotec, to provoke a miscarriage, without her boyfriend's consent, and her parents were not even aware of the fact that she was pregnant. Judite told police she went to her boyfriend's house because she was not feeling

well and that when she felt better she would go home. When witness testimony is heard, the origin of the ingested drug ingested may become known”.

A forensic medical exam was performed, but no abortion was proven, and the girl even said she was not sure that she had even been pregnant.

As such, the prosecutor filed the following report:

After an analysis of the records, especially the attached report on the forensic medical exam (...), we find that there is not even minimal proof that the violation in question ever took place.

Thus, this agency is convinced that the records do not provide even the slightest bit of evidence upon which a case could be brought to trial by the State Prosecutor, as there is no just cause for enacting a socio-educational measure on the girl, which would have been the proper educational reprimand designed to intervene in the adolescent's developmental phase, and her subsequent reintroduction into society.

Therefore, given the absence of elements that prove the any crime was committed by the adolescent, art. 189, II, of the ECA is therefore applied, and no socio-educational reprimand is suitable.

In light of the foregoing, the Prosecutor DISMISSES the case, and asks the court to confirm this decision, pursuant to art. 181 of the ECA.

This was the last update on the proceeding.

In this case we see parents who are unhappy with their daughter's behavior and relationship, and who attempted to control that behavior by accusing her boyfriend of holding her against her will. The daughter reports having taken Cytotec, and an abortion then becomes presumed, which is later unconfirmed by a forensic medical exam.

Comprehensive case analysis

The ten female adolescents accused of abortions live in favelas and the poorest parts of the city of Rio de Janeiro. Four said they were white, six were non-white. All but one had lower levels of schooling for their age. They should have been further along in secondary school, but they were still studying at the primary school level. Cytotec, which the girls took of their own volition, was the most commonly used abortion method. One girl had an abortion at a private clinic, another one sought out a clinic after she ingested the abortifacient and became ill. Many of them suffered complications from the procedure and ended up in public hospitals, which in some cases led to the reporting of the abortion, and consequent entry into the judicial system.

The first conclusion from these cases is that oftentimes the crime of abortion is reported within the context of a larger matter, and it is not always the accuser/informant's desire to report the occurrence of that particular crime. This is so, because these young women are having abortions within the context of intimate relationships, where passions, moral reputations, sex, motherhood and the health of the pregnant mother, fetus or baby all come into play. Reporting this crime is often an act of passion, or it slips out, or even results from other concerns that at that time are considered even more serious – a daughter's sexual behavior or even their health.

The situation takes on dramatic overtones because adolescents are involved, who have no autonomy to make decisions with more independence in relation to their partners and family members. In many cases, clearly it is a lack of financial means to perform a safe abortion or even purchase Cytotec. The fear of their partners' or families' reaction and concern for their

sexual reputation may represent excessive burdens for these girls, who either make hasty decisions or wait too long to make decisions. The timing of the decision-making appears to be important.

Within this context, the mother's role is fundamental. From partner to enemy, she can play many different roles, even acting as the adolescent's moral gatekeeper. Reporting a crime (not necessarily an abortion) appears to be an attempt at controlling adolescent behavior, who apparently face their own sexual preferences and decisions more naturally. Either presumed or consumed, when the abortion is made public, it reveals struggles related to the moral and legal status of a young woman's sexuality: on the one hand, autonomy and pleasure, and on the other, control and risk. And concomitant to this dynamic is the legal classification of a crime.

It is quite difficult to prove an abortion has taken place unless it is caught in the act. Once days have passed, it becomes impossible to certify a pregnancy had once existed through a forensic medical exam.

The average time taken to rule on these cases varied between 4 days (in the case of the girl raped by her father) to 3 years and 10 months. The most common decision was dismissal and reprieve. It must be acknowledged that the very fact that a case exists is already burdensome to a young person, who has had her privacy, body and sex life displayed for judgment by everyone involved, as well as the courts. Even if the penalty is not harsh, the punishment is, one way or another.

Perhaps the most punishing time for everyone involved is when statements are taken by the police. The documents produced at other phases of the case find the parties involved to already have another psychological perspective of what happened, especially with respect to the choices that led to the events. During that first deposition, oftentimes the young woman has just undergone a surgical procedure, is bleeding and is conflicted, and that in and of itself is traumatic. Having to report and reveal what has happened, and further still, providing coherent and rational explanations can be quite stressful, stigmatizing and more than anything - punitive. This punishment is rendered even more severe when one takes into consideration the fact that much of our research has shown that these young women are treated poorly in public hospitals, and patient-doctor confidentiality is violated.

5. Conclusions

Being subject to a criminal proceeding likely means being subject to one of the sharpest instruments of control held by the government, which uses bureaucratic and professional tools, along with specialized knowledge.

The Juvenile Courts in the state capital of Rio de Janeiro are full of children, adolescents and families from the very lowest rungs of the social strata. The poor who turn to or fall into these security and justice apparatus often are often associated with the notion of "dysfunctional families"¹³ by the people working in these offices and by common sense. In interviews with court professionals, which are still being processed, the recurring view is that poverty and low

¹³ DEBERT, Guita Grin. As Delegacias de Defesa da Mulher: judicialização das relações sociais ou politização da justiça? [Women's Precincts: judicialization of social relations, or the politicization of justice?] In: CORRÊA, Mariza (org.). *Vida em família: uma perspectiva comparativa sobre "crimes de honra"* [Life in a family: a comparative perspective of "honor crimes"]. Campinas: Pagu/Unicamp, p.15-39, 2006.

education levels favor abortions among young women. Thus, the justice system, according to those professionals, should forego “punitive” actions and offer a pardon (reprieve), in acknowledgment that the state has failed to provide these young women and their families with an education and better life conditions. However, a pardon does not avoid any actual punishment of those accused, as these cases show.

The perception that poverty leads to abortion masks the fact that women of all social classes have abortions, many times who are married and observant religiously¹⁴, which stands at odds with the image of a “dysfunctional family”. Poverty does not explain the abortion rate, but there is a great deal of evidence of the relationship between treating women like criminals for having abortions and poverty, low levels of education, age, race, residence, lack of access to contraceptives and lack of sex education. To that end, criminalization is a way of exerting power and social control over the reproductive rights and sexuality of poor women.

A case analysis indicates that when accused adolescents move through public safety and justice agencies, disputes arise about what sort of behavior is appropriate, especially with respect to their sexuality. If the accused girls appear to accept their sexuality naturally, the adults (government professionals and family members) tend to classify them as a “matter of health” that involves risks, requires special care, and especially, control. As we have seen, many of these cases began with an accusation from a family member who was attempting to control these young women’s sexual lives.

This trend toward a negative and controlling view of adolescent sexuality is reproduced in terms of policies and programs directed at young women, which historically tie sexual experiences to the risk of pregnancy, illness and sexual violence. A less normative conception of adolescent sexuality, one that is more receptive to experiences and the idea of pleasure, is still a counter-culture minority argument¹⁵.

The cases analyzed, especially the social studies, express an expectation of normalizing adolescent and poor families’ behavior, whereby they expect these young women will conform to ideals like “personal growth”, “professional training”, “responsibility and “caring for one’s health”. These normative references express an adolescent ideal that appears to exclude the possibility of positively exercising one’s sexuality and other life projects by the young women charged. It is of note that these expectations for behavior are directed at a specific type of girl, coming from the needier social classes, in terms of income, education level and social opportunities for advancement.

As long as abortion remains criminalized in Brazil, it would be important that, once seen by the court system, these young women be seen as people with rights, including sexual rights, who can make informed decisions about this matter and their reproductive rights. Young women should therefore be armed with information so that they can better “control” their sexuality and reproduction, and not just be kept “under control”. As of now, research has not uncovered any

¹⁴ DINIZ, Debora; MEDEIROS, Marcelo. Aborto no Brasil: uma pesquisa domiciliar com técnica de urna [Abortion in Brazil: home census using polling techniques]. *Ciênc. saúde coletiva*. Rio de Janeiro, v. 15, supl. 1, June 2010. Access at: <http://www.scielo.br/scielo.php?script=sci_arttext&pid=S1413-81232010000700002&lng=en&nrm=iso>. Accessed in November, 2013.

¹⁵ LEITE, Vanessa. *Sexualidade adolescente como direito? A visão de formuladores de políticas públicas*. [Adolescent sexuality as a right? The view of public policy makers] Rio de Janeiro: EdUERJ, 2013.

movement on the part of the judiciary to offer information and resources to girls about their sexual and reproductive rights, which would seem to fall under the purview of the social-educational principle that guides the Juvenile Court System. Perhaps we are still in an excessively protective phase of the juvenile system, rather than an educational and restorative one¹⁶.

Although abortion has led to less serious penalties, the different criminalization phases are punitive and stigmatizing in and of themselves. By using standardized procedures, which in the case of a young women who has recently undergone the physically aggressive procedure of a premature birth, could be viewed as institutional violence analogous to torture.

Therefore, if the adolescent is not seen as the criminal agent in all of these cases, she is certainly penalized and violated through the State's coercion and violence. From the forensic medical examination through visits from court officials at their homes and their criminal "rap sheet" while the case is underway, this stigma follows them. The State is not acting as an educator; rather it puts itself into the role of controller, either criminalizing or simply ignoring the case, but leaving an indelible mark on the lives of the people who, in these cases we examined, already face so many other serious challenges.

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¹⁶ SPOSATO, Karina B. *Direito Penal de Adolescentes: elementos para uma teoria garantista*. [Juvenile Criminal Law: elements for a public-driven policy theory] São Paulo: Saraiva, 2013.