

# The context of family planning in Brazil

José Eustáquio Diniz Alves<sup>1</sup>

For most of its history, Brazil has maintained a family and pro-natalist culture. For nearly 450 years, the promotion of high fertility was justified by virtue of the high mortality rates, the interests of the Portuguese colonizers, the expansion of territorial occupation and the growth of the domestic market.

The Civil Code of 1916 placed women, though recognized as citizens, on an unequal footing in society in comparison with men, and reinforced patriarchal family standards. During the period of the “New State” (1937-1945), under the government of Getúlio Vargas, certain legal provisions were adopted to sustain the larger family, by means of a variety of measures: Regulation and discouragement of female working; incremental income tax levied on single people or those that were married but childless; assistance with home ownership for those intending to marry, income supplements for married couples with children, income support for the heads of larger families whose income was below a certain level, and rules that granted privileges to married couples with children in terms of access to and promotion within public service (Fonseca, 2001).

Article 124 of the Brazilian Constitution of 1937 stated that: “The family, constituted by indissoluble marriage, comes under the special protection of the State. Larger families will be granted compensation in proportion to their responsibilities”. In this period, as well as the incentives to marry and have children, there was a piece of legislation that was clearly anti-birth control that forbade the use of contraceptive methods and abortion: a) Federal Decree 20291, of 1932 established that “Doctors are forbidden from indulging in any practice whose aim is to prevent conception or terminate gestation”; and b) in 1941, the Criminal Misdemeanor Law was approved

---

<sup>1</sup> Researcher and Professor at the National School of Statistical Sciences (ENCE), at the Brazilian Institute of Geography and Statistics (IBGE). Email: jed\_alves@yahoo.com.br.

in which article 20 prohibited: “the advertising of processes, substances or objects destined to cause abortion or prevent pregnancy” (Rocha, 1987).

The pro-natalist stance present in the national culture predominated up until the middle of the 1970s, although Brazil has never gone as far as formulating an explicit population policy (Fonseca-Sobrinho, 1993). The military dictatorship that came to power in 1964 adopted expansionist, demographic stances, as expounded in the Strategic Development program (1968-1970) and in the message delivered to Pope Paul VI in 1968, at the time of the encyclical *Humanae Vitae* (Canesqui 1985). In 1967, a Parliamentary Commission of Inquiry (CPI) was created to investigate accusations over the existence of “mass sterilizations” of women in the Amazon region. The CPI did not come to any concrete conclusion, but it helped to create a climate of hostility against family planning. Brazil also adopted contrary positions to the limitation of population growth at the Conference on the Human Environment in Stockholm in 1972 and in preparatory meetings for the World Population Conference in 1974, held in Geneva (Merrick and Graham, 1981).

Officially, the Brazilian government had no action plan to meet the demand for methods of fertility control and birth spacing. In the absence of a policy guaranteeing access to contraceptive methods, the market (drugstores, health system and private institutions) started to fill this “void”. In 1965, in order to fill the void created by the absence of public policies on reproductive health, the Family Well-Being Civil Society, known as BEMFAM, was created, which began offering family planning services. In 1967, BEMFAM joined the International Planned Parenthood Federation (IPPF). Other non-governmental, non-profit making organizations operating in the country included the Research Center for Integrated Mother and Child Health Care (CPAIMC), set up in 1975 and the Brazilian Association of Family Planning Agencies (ABEPF), established in 1981. However, the combined efforts of these entities only covered a limited portion of domestic demand for fertility regulation.

It was only after the World Population Conference in Bucharest in 1974 that the Brazilian government started to consider family planning as a right of individuals and couples. The Mother & Child Health Program, launched by the Ministry of Health in 1977, was the first action by the State in terms of the provision of family planning and included the prevention of high risk pregnancies. However, this program was criticized for its limited focus and the narrow conception of thinking about women’s health only in its maternal scope.

With the advent of political openness and the process of democratization at the beginning of the 1980s, the family planning issue started to be argued within a context of comprehensive women’s health. The result was the launch of the Program for Women’s Comprehensive Health Care (PAISM), launched in 1983, which viewed

the issue of women's health in a comprehensive fashion, and did not limit itself exclusively to the issues of conception and contraception. The PAISM was proposed to care for women's health during the life cycle, and not just during pregnancy and breastfeeding, paying attention to all aspects of their health, including cancer prevention, gynecological care, family planning and infertility treatment, pre-natal care, as well as during and after childbirth, diagnosis and treatment of Sexually Transmitted Diseases (STDs), as well as occupational and mental illness. In the environment of the early 1980s, the notion of "comprehensive women's health" was the concept employed to articulate those aspects related to biological and social reproduction, within the boundaries of citizenship (Corrêa and Ávila, 2003).

In 1983, another CPI was created to investigate problems linked with population growth, in the context of the 1981-1983 economic crises. The general consensus was that there should be no mandatory fertility control in the country and that the availability of contraceptive methods should be considered a right for all citizens, it being the duty of the State to provide them through the public health system. Accordingly, it was based on the founding concepts of the PAISM that the Brazilian government drafted its official position at the International Population Conference in México in 1984.

This type of approach was important in steering the debates over the drafting of the Federal Constitution of the New Republic. At the end of the Constitutional Convention debates, the approved wording of § 7 of article 226 of the 1988 Brazilian Constitution read as follows:

"Founded on the principles of the dignity of the human being and responsible parenthood, family planning is a free decision of the couple, with the State being responsible for providing educational and scientific resources for the exercise of this right, it being forbidden for official or private institutions to practice any kind of coercion".

The issues of abortion and sterilization were not included in the text of the constitution. Tubal ligation and male sterilization were forbidden in Brazil by article 16 of decree 20931 of 1931 and by article 29, paragraph 2.III of the Brazilian Penal Code of 1940, which states that any serious bodily injury resulting in the permanent disability of a limb, sense or bodily function is deemed to be a crime. However, the prevalence of sterilization in Brazil prompted the installation of another Parliamentary Commission of Inquiry (CPI), in 1991, to investigate the causes of "mass sterilization" of Brazilian women and if there existed a greater probability of sterilization of black women. The work of the CPI showed that there was no racial discrimination – since white women were more likely to be sterilized – but it did indicate a need for the regulation of the practice of both male and female sterilization (Cavenaghi, 1997).

Based on this CPI, the Brazilian Parliament began to debate legislation on the topic, and in 1996, the National Congress approved Law 9263, which governs § 7 of article 226 of the Federal Constitution, which deals with family planning in Brazil. This law incorporates much of what had been previously discussed within the country about family planning in terms of the rights of women, men and couples, being part of a package of global and integral healthcare actions and it also prohibits any coercive measures. In the 1990s, the first benchmark services were created to provide care in cases of abortion as set out in the 1940 Penal Code (pregnancy resulting from rape or when there is a risk of death to the woman).

From the previous, it can be seen that in the 1980s and 1990s, Brazil succeeded in implementing legislation governing the practice of family planning. This is not to say that the country adopted a population policy based on birth control. The Brazilian State continued to reaffirm a position that was in conflict with the demographic goals, but there was recognition that the population was demanding a means of making its own reproductive decisions. In fact, the family planning law in Brazil relied upon the transfer of the Reproductive Rights concept approved at the International Conference on Population and Development (ICPD) in Cairo in 1994, and it was sanctioned at a time when fertility transition was already well underway.

In fact, the demand for contraceptive methods had been growing gradually larger since the 1960s when the average number of children per woman in Brazil began to fall. In around 40 years, the Total Fertility Rate (TFR) that had been over 6 children per woman, reached the replacement level (2.1 children) in 2005 and is now in the range of 1.8 to 1.9 children per woman, according to the National Demographic and Health Survey (PNDS-2006) and the National Household Survey (PNAD-2008), respectively. Nevertheless, the national average rides socio-economic differences in fertility rates that exist in the country. According to Berquó and Cavenaghi (2004), women with up to 3 years of schooling and with a per capita household income of up to ¼ of the minimum salary in 2000, demonstrated fertility rates above 5 children per woman, while those having 9 years or more education and a per capita household income greater than ½ minimum salary were already presenting fertility below replacement levels. Amongst adolescents and youngsters between 15 and 19 years of age, the fertility differentials in 2007 varied more than tenfold, according to the socio-demographic indicators employed (Cavenaghi, and Alves, 2009).

Recognizing that the poorer segments of population had less access to methods of fertility regulation, the Ministry of Health launched on February 11, 1999, Ordinance No. 048 in order to establish operating standards and monitoring mechanisms for implementation of family planning activities at the Unified Health System for the provision of services and methods. Since then, the Federal Government had

committed to a growing supply of contraceptive methods and their availability to states and municipalities. The large municipalities received directly the methods and the small ones received them throughout states' distribution.

Following the same line of action, the next Federal Government, through the Ministry of Health and the Special Secretariat for Policies for Women (SPM) launched in 2005 the National Policy on Sexual and Reproductive Rights, whose objectives were: a) To broaden the provision of reversible birth-control methods by the public health system (SUS) – the Ministry of Health is responsible for buying 100% of contraceptive methods for SUS users (up until then, the Ministry was responsible for supplying between 30% and 40% of contraceptives – the remaining 60% to 70% falling under the responsibility of state and municipal health secretaries); b) To broaden access to surgical sterilization on the SUS, by increasing the number of health services with accreditation for performing tubal ligation and vasectomies, in every state of Brazil; c) To introduce human assisted reproduction on the SUS (Brazil, 2005 and 2006).

Faced mainly with distribution problems, in 2007, the Federal Government launched its “National Family Planning Policy”, whose goal is to provide free contraception to men and women of reproductive age and it also establishes that the purchase of contraceptives shall be made available in the Popular Pharmacy network at very low cost (UNFPA, 2008).

Although the “National Policy on Sexual and Reproductive Rights” (2005) and the “National Family Planning Policy” (2007) have a coherent rights-based concept, there are still difficulties involved in universal access to reproductive health in Brazil, as established in goal 5B of the Millennium Development Goals (MDG). These policies still present problems in meeting the demand for contraceptive methods, particularly in the poorer strata of society and communities that are situated far from the large conurbations. The resolution of logistical problems of making adequate quantities of means of fertility regulation available continues to be an essential task in reducing unwanted or unplanned pregnancies and in liberating the practice of sexuality from possible embarrassments of untimely reproduction.

## References

Alves, J. E. D. (2004) “Políticas populacionais e direitos reprodutivos: o Choque de civilizações versus progressos civilizatórios”. In: Caetano, Andre J., Alves, Jose. E. D., Corrêa, Sonia. (Org.). *Dez anos do Cairo: tendências da fecundidade e direitos reprodutivos no Brasil*. 1 ed. Campinas: ABEP/UNFPA, 2004.

Berquó, Elza, and Cavenaghi, S. M. (2004) “Mapeamento Sócio-econômico e demográfico dos níveis de fecundidade no Brasil e sua variação na última década”. In: *Anais do XIV Encontro Nacional de Estudos Populacionais*. Campinas, SP: ABEP, 2004.

Brasil (2005) *Direitos sexuais e direitos reprodutivos uma prioridade do governo. Série Direitos Sexuais e Direitos Reprodutivos* - Ministério da Saúde: Caderno, 1, Brasília, available at: [http://portal.saude.gov.br/portal/arquivos/pdf/cartilha\\_direitos\\_sexuais\\_reprod.pdf](http://portal.saude.gov.br/portal/arquivos/pdf/cartilha_direitos_sexuais_reprod.pdf)

\_\_\_\_\_ (2006) "Departamento de Ações Programáticas Estratégicas. Direitos sexuais, direitos reprodutivos e métodos anticoncepcionais", *Série Direitos Sexuais e Direitos Reprodutivos*; Caderno, 2, Ministério da Saúde, Secretaria de Atenção à Saúde.: Brasília, 52p, available at: [http://portal.saude.gov.br/portal/saude/visualizar\\_texto.cfm?idtxt=24816](http://portal.saude.gov.br/portal/saude/visualizar_texto.cfm?idtxt=24816)

Canesqui, Ana M. (1985) Planejamento Familiar Campinas, *Revista Brasileira de Estudos de População*, 2 (2): 1-20.

Cavenaghi, Suzana (1997) *Female sterilization and racial issues in Brazil*. Austin, Texas, MA, thesis, University of Texas at Austin.

\_\_\_\_\_ and Alves, J. E. D. (2009) Fertility and Contraception in Latin America: Historical Trends, Recent Patterns. In: *Population Association of America (PAA) 2009 Annual Meeting*, PAA: Detroit.

Corrêa, S. and Ávila, M. B. (2003) "Direitos sexuais e reprodutivos: pauta global e percursos brasileiros". In: BERQUÓ, E. (org.), *Sexo e vida: panorama da saúde reprodutiva no Brasil*. Campinas: Editora da Unicamp.

Fonseca, Ana M.M. (2001) *Família e política de renda mínima*. São Paulo, Cortez.

Fonseca-Sobrinho, Délcio F. (1993) *Estado e população: uma história do planejamento familiar no Brasil*, Rio de Janeiro: Rosa dos Tempos, FNUAP.

Merrick, T.W, and Graham, D. (1981) *População e desenvolvimento econômico no Brasil*. Rio de Janeiro: Zahar.

Rocha, M. Isabel Baltar (1987) "O parlamento e a questão demográfica: um estudo do debate sobre o controle da natalidade e planejamento familiar no Congresso Nacional", *Texto Nepo*, 13, Campinas: Nepo/Unicamp.

UNFPA (2008). *Planejamento familiar: 50 anos de história*. Brasília, available at: <http://www.unfpa.org.br/Arquivos/relatoriowpd.pdf>