

# The global issue of statutory rape: Brazil's experience

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**Abstract**— *Background: More women, and especially those younger than 14 years, have reported their first sexual intercourse as coerced. These age groups need to be targeted for interventions to delay sexual debut and prevent sexual coercion. This study sought to compare the prevalence of sexual debut (SD) in adolescents under 14 years old before and after the implementation of the Statutory Rape Law in Brazil.*

*Methods: We conducted a retrospective analysis of medical records of 591 pregnant adolescents aged 10-18 years served at teaching maternity hospital of Brazil's National Health System (Sistema Único de Saúde – SUS). Sociodemographic data and information on clinical history of SD were collected.*

*Results: The prevalence rate of SD under 14 years of age was 26% in 2006 versus 48.5% in 2016 ( $p < 0.001$ ). In 2006, the median age of the partner was 19 years versus 17 years in 2016 ( $p = 0.001$ ).*

*Conclusions: The prevalence of early sexual debut was significantly higher 7 years after the implementation of the Statutory Rape law as compared to 3 years prior.*

**Keywords**— *Sexuality; Date rape; Adolescent; Statutory rape.*

## I. INTRODUCTION

Researchers suggest that in some instances early sexual debut is the result of sexual violence including rape and other forms of coercion (Ankomah, Mamman-Daura, Omoregie, & Anyanti, 2011). Data from longitudinal research carried in South Africa shows that more women, and especially those younger than 14 years, reported their first sexual intercourse as coerced. The data show that these age groups need to be targeted for interventions to delay sexual debut and prevent sexual coercion (Richter, Mabaso, Ramjith, & Norris, 2015).

Data from the World Health Organization show that one in five girls has been sexually abused during childhood, with estimates from some countries placing that proportion closer to one in three (World Health Organization [WHO], 2014).

According to the Epidemiological Bulletin issued by Brazil's Health Surveillance Secretariat, there were 76,716 cases of sexual abuse against women under the age of 19, which accounted for 92.4% of all reported cases of sexual abuse in Brazil. Moreover, 67.1% of these women were aged 10 to 14 years. The bulletin highlighted the difficulty in giving visibility to the problem due to its intimate nature, the victims' poor autonomy to communicate the event, the social stigma and the feeling of shame (Brasil, 2018).

Peer group pressure (50%), monetary gain (27.5%), personal satisfaction (16.7%), curiosity (4.2%) and lack of home guidance from parents and relatives (1.7%) have been reported as the most common reasons for having premarital sex (Duru, Ubajaka, Nnebue, Ifeadike, & Okoro, 2010).

Another factor that contributes to early sexual debut is child marriage. Brazil ranks fourth in absolute numbers of women married by age 15. However, Informal unions are more common than formal marriages involving underage girls and adult men and usually occur after a period of courtship, casual sex or dating (Taylor, Lauro, Segundo, & Greene, 2015).

In certain given societies, culture, honor, tradition, and religion undergird adult-adolescent marriage. Therefore, understanding the practical physical and mental health needs related to child marriage should underpin any plans for development at the community, state, regional and international levels (Equality Now, 2014). Faced with this problem, Canada set the general age of consent for sexual activity at 16 years old (Fleming, O'Driscoll, Becker, & Spitzer, 2015).

The age of marriage in Brazil is 16, with parental consent required when individuals are under the age of 18 (Brasil, 2008). The law sets out that marriage under the age of 16 may be allowed only in two cases: 1) to avoid the imposition or enforcement of criminal penalties; or 2) in case of pregnancy. However, child marriage is very common and widely accepted in Brazil, which is ranked fourth in the number of girls married to a partner by the age of 15. These girls usually seek older husbands to escape from sexual and other violence in the home, or because of teenage pregnancy or the lack of job opportunities (Taylor et al., 2015).

In Brazil, with the purpose of protecting young adolescents, Law No. 12 015 was put into effect in 2009 to alter art. 1 of Law No. 8072 of 1990. The law defines in its article 217-A "Statutory Rape" as any action that, even with consent, may result in "sexual intercourse or practice of another libidinous act with individuals under the age of 14 (fourteen) years". Punishment for this crime is 8 to 15 years of imprisonment. It should be noted, however, that if the perpetrator is under the age of 18, it is still a crime. However, in Brazil, the age of criminal responsibility is 18 years old. Therefore, individuals under the age of 18 will not be sent to jail (Brasil, 2009).

Therefore, the changes in this law should have implications for the fight against crimes against sexual freedom, either with regard to coverage of cases or redefinition of penalties (Nucci, 2014). However, the rates have not decreased, and a significant proportion of cases are not reported to the police (Gallo et al, 2016).

Thus, considering the hypothesis that the rate of early sexual debut in girls under the age of 14 may have decreased in 2016 compared with 2006 after the implementation of the Statutory Rape Law in 2009, our

study aimed to compare the prevalence of early sexual debut (SD) in adolescents under 14 years old before and after the implementation of the Statutory Rape Law in Brazil.

## II. METHODS

This quantitative research is based on a retrospective analysis of secondary data collected from medical records of pregnant adolescents who attended the Pediatric and Adolescent Obstetrics and Gynecology Clinic at the Assis Chateaubriand Maternity Hospital, a teaching hospital affiliated with the Federal University of Ceará. The hospital is part of Brazil's National Health System – the Unified Health System (*Sistema Único de Saúde – SUS*) – and has been serving the population of Ceará since 1965. It is a reference center with the mission of promoting education, research and tertiary health care.

The study used a census of medical records of adolescents who attended the clinic in 2006 and 2016 in order to assess the age of sexual debut before and after the implementation of Law No. 12 015, which defines Statutory Rape as any sexual act with an individual under the age of 14. The years analyzed corresponded to the period when the data were fully consolidated.

Data were collected from the medical records of pregnant adolescents who spontaneously sought the clinic for prenatal care. The medical record was completed by the doctor's assistant during the first prenatal care consultation.

Data were collected using an author-developed form that addressed sociodemographic information (age, education, partner's age, marital status, knowledge and use of contraceptive methods) and clinical history (age of sexual debut and menarche). The study was carried out from September to November 2017 after approval from the Research Ethics Committee (Approval No. 1.898.946).

Inclusion criterion was: age between 10 and 18 years, as the clinic served girls up to 18 years of age. Medical records that did not inform the age of the adolescents were excluded.

The results were organized and consolidated using the Statistical Package for the Social Sciences, version 23.0 (SPSS Inc., Chicago, IL, USA). The results were analyzed using inferential statistics (Pearson's Chi-squared test, Fisher's Exact test, and Mann-Whitney U) test with the significance threshold set at 5%. The Shapiro-Wilk test was used to test the normality of the quantitative variables.

### III. RESULTS

The quantitative variables presented a non-normal distribution ( $p < 0.001$ ). In all, 591 medical records were assessed. Of these, 319 corresponded to adolescents who attended the clinic in 2006, whose age ranged from 12 to 18 years, with a mean age of  $16.2 \pm 1.5$  years. The other 272 medical records corresponded to adolescents who attended the clinic in 2016, whose age ranged 12 to 18 years, with a mean age of  $15.2 \pm 1.4$  years.

Table 1 shows a statistically significant difference in adolescents' age of sexual debut between the two periods ( $p < 0.001$ ). The prevalence of early SD was 26% among the study cohort in 2006 as compared to 48.5% in 2016.

Table 1. Sexual debut by year. Fortaleza, Brazil, 2017.

Age of SD	2006	2016	p value
	n (%)	n (%)	
<14	83 (26.0)	132 (48.5)	<0.001
≥14	236 (74.0)	140 (51.5)	

Source: Research data. Chi-squared test. SD = Sexual Debut.

Table 2 shows the characteristics (marital status, years of study and knowledge and use of contraceptive methods) of the adolescents whose SD occurred before the age of 14 years. The adolescents' mean years of study was  $8.6 \pm 2.7$  years in 2006 and  $8.0 \pm 2.2$  years in 2016.

Table 2. Characteristics of the adolescents whose SD occurred before the age of 14 in 2006 and 2016. Fortaleza, Ceará, 2017.

Variables	2006 (n=83)	2016 (n=132)	p value
	n (%)	n (%)	
<b>Age of SD</b>			0.453 <sup>2</sup>
10	-	3 (2.3)	
11	6 (7.2)	13 (9.8)	
12	24 (28.9)	30 (22.7)	
13	53 (63.9)	86 (65.2)	
<b>Marital status</b>			<0.001 <sup>1</sup>
Married or living with a partner	80 (96.4)	92 (71.9)	
Single or living without a partner	3 (3.6)	36 (28.1)	
<b>Years of study</b>	8.6±2.7	8.0±2.2	0.279 <sup>3</sup>
<b>Knowledge about contraceptive methods</b>			0.009 <sup>1</sup>
Yes	72 (93.5)	78 (79.6)	
No	5 (6.5)	20 (20.4)	
<b>Use of contraceptive methods</b>			0.041 <sup>1</sup>
Yes	32 (50.8)	63 (67.0)	
No	31 (49.2)	31 (33.0)	

<sup>1</sup> Pearson's Chi-squared Test; <sup>2</sup> Fisher's Exact Test; <sup>3</sup> Mann-Whitney U Test

Years of study were similar in both groups. In all, 80 (96.4%) adolescents in 2006 and 92 (71.9%) adolescents in 2016 were married or lived with a partner, with a statistically significant difference between the years ( $p < 0.001$ ) and significant standardized residuals.

Most of the adolescents knew contraceptive methods – 72 (93.5%) in 2006 and 78 (79.6%) in 2016

( $p = 0.009$ ) – and how to use them – 32 (50.8) in 2006 and 63 (67.0) in 2016 ( $p = 0.041$ ).

Table 3 depicts the median and the quartile values for SD, age of menarche, and age of the partner at SD in 2006 and 2016. The median age of SD was 13 in both years, with no significant difference ( $p = 0.915$ ).

Table 3. Characteristics of sexual debut before the age of 14 in 2006 and 2016. Fortaleza, Ceará, 2017.

Variables	2006 (n=83)		2016 (n=132)		p value
	Mean $\pm$ SD	Median (1 <sup>st</sup> – 3 <sup>rd</sup> quartile)	Mean $\pm$ SD	Median (1 <sup>st</sup> – 3 <sup>rd</sup> quartile)	
Age of SD	12.6 $\pm$ 0.6	13.0 (12.0 - 13.0)	12.5 $\pm$ 0.8	13.0 (12.0 - 13.0)	0.915
Age of menarche	11.2 $\pm$ 1.1	11.0 (10.0 - 12.0)	11.2 $\pm$ 1.1	11.0 (11.0 - 12.0)	0.715
Age of the partner at SD	21.0 $\pm$ 6.3	19.0 (17.0 - 23.0)	18.2 $\pm$ 3.4	17.0 (16.0 - 20.0)	<b>0.001</b>

**Mann-Whitney U test**

The median age of menarche was also the same in both cohorts. The age of the partner at SD ranged 12 to 45 years in 2006 and 12 to 30 years in 2016, with a median of 19 years in 2006 and 17 years in 2016 ( $p=0.001$ ).

**IV. DISCUSSION**

Most studies on sexual debut focus on girls aged 15-19 years. Given that, the present study is relevant because it analyzes sexual debut in girls under 14 years of age, which may contribute to the planning of public health policies targeted at this population group.

The statistically significant difference ( $p<0.001$ ) in the number of pregnant adolescents under 14 years of age in 2006 (26%) compared with 2016 (48.5%) demonstrates that Brazilian girls are having sex at earlier ages, which, in Brazil, is considered Statutory Rape, as defined in Law 12 015 (Brasil, 2009). However, as mentioned previously, even with the existence and redefinition of the Law, the number of cases continue to grow, with major implications for adolescents (Nucci, 2014).

It should be noted that our study analyzed the medical records of pregnant adolescents who attended a reference pediatric and adolescent obstetrics and gynecology clinic. Data from a study of 21 countries with complete statistics on teenage pregnancy rate showed that, among countries with reliable evidence, the highest rate among 10- to 14-year olds was in Hungary (1.19/1000 pregnancies) and the lowest was in Switzerland (0.09/1000). In addition, the study reported that the proportion of teen pregnancies that ended in abortion ranged from 17% in Slovakia to 69% in Sweden (Sedgh, Finer, Bankole, Eilers, & Singh, 2015).

The adolescents analyzed in the present study had a mean of seven years of study in both periods. In Brazil, there have been two models of sex education: the biological-centered and preventive approach and the

biopsychosocial approach. The first focuses on the biological aspects of sexuality and on the prevention of STD and pregnancy in adolescence. The latter introduces a broader concept of sexuality, which includes social, cultural and subjective aspects (Vieira & Matsukura, 2017).

The relevance of sex education for adolescents is emphasized by the results of a national study on the sexual behavior of Brazilian adolescents. Adolescents who did not receive pregnancy prevention education at school exhibited increased sexual intercourse ( $OR=1.41$ ) and unprotected sex ( $OR=1.87$ ) (Oliveira-Campos et al., 2014).

It should be noted that despite knowing contraceptive methods (93.5% in 2005 and 79.6% in 2016), most of the adolescents analyzed (50.8% in 2005 and 67.0 % in 2016) did not use any. This finding is consistent with the findings of a study in which less than half (45%) of the adolescents consistently used condoms with the most recent partner (Fortenberry, 2013).

Early sexual intercourse has been associated with unprotected sex and more partners over a lifetime (Oliveira-Campos et al, 2014; Shafii, Stovel, & Holmes, 2007). In addition, ESD is associated with increased risk for sexually transmitted infections. One fourth of current Danish adolescents do not use any protection at their sexual debut. Therefore, strengthened preventive measures are still needed (Stryhn & Graugaard, 2014).

In this context, research using nationally representative data from the National Survey of Family Growth (NSFG) to examine timing of sexual initiation and contraceptive use in adolescents aged 10 to 19 years found that girls who start having sex at 14 or younger are less likely to have used a contraceptive method at first sex and take longer to begin using contraception (Finer & Philbin, 2013).

In this regard, the World Health Organization (WHO, 2014b) advocates for a human rights-based

approach to adolescent health that should be clear about the obligations and duties of governments, focus on equity, support interventions and policies that are needed, especially those that are culturally sensitive and controversial, such as sexuality education and informed consent, and ensure that adolescents are listened to and engaged.

Research has reported that girls in the United States are maturing at an earlier age than they did 30 years ago and that research on this topic is necessary to inform health professionals of the current trends and incidence of precocious puberty to better meet the physical and psychosocial needs of these girls and their families (Sandra & Cesario, 2007). Such early maturation was observed in our study as the median age at menarche was the same (11 years) in the two periods analyzed (2006 and 2016).

Early menarche has been associated with early coitarche before age 15 in Swedish girls, which is in turn associated with an increased risk for STD and unintended pregnancy. However, there is a liberal attitude towards sexual relations among adolescents in Sweden, where education on sexuality and personal relationships has been part of the national school curriculum since 1956 and youth polyclinics are tailored to the needs of adolescents to form a network over the country in order to support young people in developing responsible sexual behavior and to minimize reproductive health problems (Edgardh, 2000).

Another important finding that justifies the implementation of the Statutory Rape Law is the age of the partner at adolescents' SD. Partners were much older than the adolescents, particularly in 2006 (before implementation of the Statutory Rape Law), when the median age of partners of adolescents aged 14 or less was 19 years compared with 17 years in 2016 (after implementation of the Statutory Rape Law) ( $p=0.001$ ).

A study of 294,484 incidents of sexual assault involving a single victim and single offender found that older men have much higher rates of offending (Felson & Cundiff, 2014). Thus, the implementation of Law No. 12.015/2009 made Statutory Rape a more severe crime in Brazil and may have decreased the number of adult men who engage in sexual intercourse or other libidinous acts with younger girls, although it did not reduce the number of girls who had sex at ages 14 and less.

It should be noted, however, that most of the adolescents (96.4% in 2006 and 71.9% in 2016) in our study were either married or had a partner. This finding is consistent with the findings of a study which showed that many adolescents start sexual activity within an established

relationship characterized by terms that indicate relative commitment and exclusivity (e.g., friend, boyfriend/girlfriend or fiancée) (Manning, Giordano, Longmore, & Flanigan, 2012).

Early age of sexual initiation is much more tolerated than marriage at an early age. Research has found that over half of men and girls believe that girls are able to consent to sex between ages 15 and 18 and that the percentage of men who believe girls are able to consent to sex at ages 13 and 14 (20%) is nearly double girls' agreement about sexual consent in reference to the same age group of girls. In addition, one-quarter of the men surveyed (compared to 16% of girls) also believe that when a girl's body shows signs of puberty, she is ready to have sex with an adult above the age of 18 (Taylor et al., 2015).

Any kind of sexual act against a child has serious consequences, especially if perpetrated by someone who is responsible for or who has power or control over the child or anyone who is in a position of trust. Moreover, the population aged 10 to 14 years living in unfavorable conditions are at an increased risk compared with their counterparts, and girls are particularly vulnerable to pregnancy, HIV and violence (Pinheiro, 2006).

According to the Global Status Report on Violence Prevention 2014, child protection services were the most widely reported of all services (69% of all countries), followed by medico-legal services for victims of sexual violence. However, the quality of these services and their accessibility to victims were not ascertained, and these relatively high levels of reported availability may conceal low-quality services (WHO, 2014a). In Brazil, few States have carried out a thorough review of the legal framework so that it can address violence against children more effectively, and implementation of laws, including legal reforms, remains a challenge (Pinheiro, 2006).

The increase from 26.0% to 48.5% in the rate of early sexual debut in girls aged under 14 years in the analyzed period show that the Statutory Rape law, put into effect in 2009, has been ineffective in preventing early sexual debut in girls under the age of 14. Effective interventions during adolescence may reduce the adverse long-term impacts of violence and abuse in childhood and prevent them from undermining future health (WHO, 2014b).

Marriage and statutory rape laws in Brazil seem contradicting as early marriage is associated with early sexual debut (Duru et al., 2007). This contradicting aspect undermines a more detailed analysis of the problem and is a limitation of the present study.



It should be noted that although our study used a census of medical records, it focused on adolescents attending one single maternity hospital. Therefore, the results presented cannot be extrapolated because the population analyzed may be different from populations in other regions. In addition, there were no reports of coerced sex and there was no information on the reason that led adolescents to early sexual debut. However, it should also be noted that the study was carried out in a reference center for child and adolescent health care located in the fifth largest city in Brazil and that its findings are consistent with the findings of other national and international studies, thus suggesting that they may also be found in other places.

## V. CONCLUSIONS

The results of our study are expected to draw attention to Statutory Rape, a problem whose magnitude points to the need for implementing government actions towards this problem. Our findings also show that adolescents are having sex at earlier ages and although most of the adolescents analyzed were either married or lived with a partner, further research should be carried out to improve knowledge on the issue so that public policies can be used more effectively.

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