

# Dynamics of the abortion agenda in the Brazilian Senate from 1988 to October 2020

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## Abstract

Abortion is a complex philosophical and moral issue treated as a morality policy in the public sphere. This article aims to analyze the dynamics of shaping the abortion political agenda in the Brazilian Senate, based on the punctuated equilibrium theory. Adopting the approach by Baumgartner and Jones (1993), the study explores the attention and image given to abortion between 1988 and October 2020 to understand which factors affect the policy's agenda-setting. Documentary research and content analysis were used to examine 33 legislative propositions, 295 pronouncements, and six public hearings, classifying the policy image as neutral, pro-choice, or pro-life. The results reveal coexisting images in the arguments and preferences of senators, political parties, and participants in public hearings (both internal and external to the government). There is a trend towards stability in the Senate with a predominance of pro-life positions. However, at the same time that policy image of abortion as a crime were present in focalizing events such as public hearings, new images for framing the issue could be observed and have been discussed, addressing abortion as a public health issue and as a right. In addition, senators and external actors point to the Brazilian Supreme Court as a forum that can push for changes in the abortion legislation, such as in the example of the Claim of Non-compliance with Fundamental Precept 54 (ADPF 54) (STF, 2013) and ADPF 442 (STF, 2017), the latter is still in discussion in the court. Future studies on this agenda's dynamics should address the discussions under development in the Brazilian Supreme Court.

**Keywords:** Abortion. Agenda-setting. Morality policy. Federal Senate.

## *Dinâmicas da agenda do aborto no Senado Federal: de 1988 a outubro de 2020*

### Resumo

O tema do aborto é uma complexa questão filosófica e moral, que, na análise de políticas públicas, tem sido tratado como uma política de moralidade. Este artigo busca analisar as dinâmicas da agenda política do aborto no Senado Federal brasileiro, tendo como base a abordagem da Teoria do Equilíbrio Pontuado. Do enfoque de Baumgartner e Jones (1993), são analisadas a atenção e a imagem dada ao aborto entre os anos de 1988 e outubro de 2020, visando entender quais fatores interferem na formação da agenda. Por meio de pesquisa documental e análise de conteúdo, foram analisadas 33 proposições legislativas, 295 pronunciamentos e seis audiências públicas, sendo classificada a imagem da política presente nesses elementos conforme o tom: "neutro", "favorável" ou "contrário" ao aborto. Os resultados revelam as imagens coexistentes da questão em argumentos e preferências de senadores, partidos políticos e participantes em audiências, internos e externos ao governo. Há uma tendência de estabilidade no Senado com predominância de tom contrário ao aborto, mas novas imagens para o enquadramento do assunto são discutidas, posicionando o aborto como questão de saúde pública e como direito, simultaneamente ao seu entendimento como crime, algo também presente em eventos focalizadores como as audiências públicas. Além disso, senadores e atores externos apontam o STF como fórum que adiciona mudanças na legislação sobre o aborto, a exemplo da ADPF 54 (STF, 2013) e da ADPF 442 (STF, 2017), ainda em aberto. Sugere-se que a Suprema Corte seja abordada por futuros estudos sobre dinâmicas da agenda.

**Palavras-chave:** Aborto. Formação da agenda. Política de moralidade. Senado Federal.

## *Dinámica de la agenda del aborto en el Senado Federal: de 1988 a octubre de 2020*

### Resumen

El tema del aborto es una cuestión filosófica y moral compleja que, en el análisis de las políticas públicas, se ha tratado como una política de moralidad. Este artículo busca analizar la dinámica de la agenda política del aborto en el Senado Federal brasileño, a partir del enfoque de la teoría del equilibrio puntuado. Basándose en el enfoque de Baumgartner y Jones (1993), este artículo analiza la atención y la imagen que se ha dado al aborto entre 1988 y octubre de 2020, con el objetivo de entender qué factores interfieren en la formación de la agenda. Mediante la investigación documental y el análisis de contenidos, se analizaron 33 propuestas legislativas, 295 pronunciamientos y seis audiencias públicas, clasificando la imagen de la política presente en estos elementos según el tono "neutro", "favorable" o "contrario" al aborto. Los resultados revelan la coexistencia de imágenes de la cuestión basadas en argumentos y preferencias de senadores, partidos políticos y participantes en audiencias, tanto internos como externos al gobierno. Existe una tendencia a la estabilidad en el Senado con un predominio del tono contrario al aborto, pero se discuten nuevas imágenes para enmarcar el tema, posicionando el aborto como una cuestión de salud pública y como un derecho, simultáneamente a su comprensión como delito, algo también presente en eventos focales como las audiencias públicas. Además, senadores y actores externos señalan al Supremo Tribunal Federal como un foro que añade cambios a la legislación sobre el aborto, como exemplifican el ADPF 54 (STF, 2013) y el APFF 442 (STF, 2017), aún en abierto. Se sugiere que futuros estudios aborden la dinámica de la agenda del Supremo Tribunal.

**Palabras clave:** Aborto. Agenda-setting. Política de moralidad. Senado Federal.

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## INTRODUCTION

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The issue of abortion is a conflictive and polarizing problem in public administration, and consensus around it is very difficult, if not impossible (Mooney, 2000; Secchi, 2016). Scholars have discussed the theme reflecting on fundamental rights, human dignity, decision-making autonomy, and decisions in the public sphere (Dall'Agnol & Tonetto, 2015; Dworkin, 2009; Finnis, 2019; Ribeiro & Pinheiro, 2017), considering philosophical, moral, legal, and biological aspects.

In Brazil, interest groups are discussing the right to abortion (or the right to choose) and the right to life (Miguel, Biroli & Mariano, 2017). They defend the positions known, respectively, as “pro-choice” and “pro-life” (Munson, 2018), which are not restricted to the country and reflect transnational dynamics related to the issue.

Currently, public opinion has addressed abortion as a public health issue. However, this is an aspect involving human life, sensitive to reflection on life and death. It is a moral issue that manifests in a conflict of values in political decisions (Knill, 2013). For these and other reasons, abortion policy has been defined as a morality policy (Engeli, Green-Pedersen & Larsen, 2012; Mooney, 2000; Studlar & Burns, 2015).

The debate in the Brazilian Chamber of Deputies has suggested public policy guidelines based on family planning, women's health, and reproductive and sexual rights, demonstrating a position more likely to be pro-life than pro-choice (Miguel et al., 2017). In addition, studies such as Machado and Cook (2018), and Oliveira, Montenegro, and Garrafa (2005) analyze the deliberations of the Brazilian Supreme Federal Court (STF) on abortion. As for studies in other countries, the research by Chaqués-Bonafont, Palau, and Baumgartner (2015) stands out, that addresses the combination of the political and media agenda on the issue. Several theses and articles analyze legal and discourse aspects of abortion in the Brazilian Senate (Souza, Feltrin & Velho, 2019), but using theoretical lenses that are different from the elements of punctuated equilibrium, through which forum, actors, attention, and the policy image can be approached. In morality policies, changes appear to be slow and incremental (Studlar & Burns, 2015), although the Brazilian reality presents factors that cause sudden changes.

This article aims to analyze the dynamics of shaping the abortion policy agenda, limited to the Brazilian Senate between 1988 and October 2020, based on the approach by Baumgartner and Jones (1993). The analysis period begins with the promulgation of the current Federal Constitution and ends at the time of this research.

The research question explores **what and how elements affect the agenda-setting of the abortion policy in the Brazilian Senate?** The study contributes to understanding the morality policy of abortion based on the discussions in the Brazilian Senate – which is the upper house of the legislative branch and often target by policy entrepreneurs. Analyses were conducted of the number and tone of the legislative propositions, pronouncements by senators, and external and internal participants in public hearings, observing party preferences. This study contributes to assess how changes in the morality policy of abortion occur. These changes can be gradual and incremental or sudden and radical, depending on adding policy forums and the degree of participation in the debates. In the dynamics of the abortion agenda in the Senate, some factors affect the agenda such as new policy images, consultations to the Supreme Court via a Claim of Non-compliance with Fundamental Precept (ADPF) (when the discussions tend to achieve a consensus in the senate, external actors and political parties seek the input of the judiciary branch), and greater participation of actors internal and external to the government in policy-making – which occurred during six public hearings on abortion, considered in this study as focalizing events.

In addition to this introduction, this article contains four more sections. Section 2 presents the theoretical framework on the morality policy of abortion, agenda-setting, and agenda dynamics. The following two sections describe the methodological procedures and discuss the results. The fifth and final section presents the conclusion, the study's limitations, and suggestions for future research.

## THE MORALITY POLICY OF ABORTION

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Morality issues have received increasing attention in public policies (Engeli et al., 2012; Studlar & Burns, 2015). Several analysts consider that these issues have similar content, framing, or processes, and deserve to be considered as a common category (Engeli et al., 2012; Knill, 2013; Mooney, 2001; Schwartz & Tatalovich, 2009; Smith & Tatalovich, 2003; Roh & Berry, 2008; Ryan, 2014).

Morality policies often interact with religious values and are related to fundamental aspects, such as life and death, reproduction and marriage. Abortion has worked as a central issue, promoting the politicization of other moral issues (Studlar & Burns, 2015).

The morality policy theory offers two main currents (Engeli et al., 2012). The first investigates moral policies in the American context, addressing abortion, the death penalty, euthanasia, stem cell research, human organ trade, and other topics (for example, in Mooney, 2001; Tatalovich & Daynes, 2011). The second current comprises comparative literature, focusing on explaining the variation among countries regarding their morality issues (Banchoff, 2011; Engeli, 2009).

Mooney (2000) describes the main characteristics of the morality policy. For the author, morality policy encompasses substantial participation, represents a conflict of basic principles or values defended by different groups or coalitions, it is technically simple as a legal sanction – as it defines what is right or wrong for a community – and, finally, involves salient and controversial issues. According to Lowi's classification (as quoted in Birkland, 2005), these characteristics fit the concept of distributive policies. They represent a **remote** application of the state's coercive powers (the government could not force a person to abort against their will) to specific individuals (Smith, 2002). These policies are eminently decentralized, indicating that the focus of action is the Congress and not the President (Smith & Larimer, 2009), and they apply to the behavior of individuals (Dodds, 2013; Smith & Larimer, 2009). However, an alternative interpretation suggests that they could be **regulatory**, since they maintain the focus on individual behavior and involve the suspension of a **direct** application of the state's coercive power because it no longer penalizes abortion and are also at the level of discussion in the Congress (Dodds, 2013; Smith, 2002; Smith & Larimer, 2009). This debate illustrates the challenges around morality policies and how the state coercive apparatus is effectively used to promote desirable or eliminate undesirable behaviors.

Comparative studies (Engeli et al., 2012) have found great importance in the role of religious actors in morality policies. Engeli et al. (2012) seek to understand the politics behind political choices, considering the influence of religion and the role of religious actors such as the Catholic Church (Calkin & Kaminska, 2020). Thus, these studies compare more secularized countries with those that have confessional characteristics, in which religion influences party configuration and coalitions (Engeli et al., 2012).

For Studlar and Burns (2015), the morality policy is defined by its content or by its process. The authors find the emergence of abortion policy in 24 western democracies around 1955, lasting approximately 50 years. As for content, the authors suggest a similarity among the agendas, with a strong tendency for its permission. In the study of morality policy, they state that there is a dramatic change in direction for many people, creating winners and losers in values endorsed by the government. As a result, changes occur in gradual and incremental steps, due to cultural, institutional, and international factors, as in the case of the 24 countries analyzed by the authors, in which the abortion policy has developed over 50 years.

### Agenda-setting and agenda dynamics

The term *agenda* is used as a heuristic resource to study the process in which an issue starts to receive attention from the public policy community (Wu, Ramesh, Howlett & Fritzen, 2014). This article adopts Kingdon's (2003) definition of government agenda, also used by Baumgartner and Jones (2015). For the author, government agenda is the set of issues to which the government and related actors dedicate attention at a given moment.

Government and non-governmental actors participate in agenda-setting processes, working on the flows of problems (indicators and diagnosis), of policies (solutions), and political flows (forces and interests) (Capella, 2018; Kingdon, 2003). Actors who strongly defend a policy are defined as public policy entrepreneurs (Anderson, 2003; Capella, 2016;

Kingdon, 2003). They can contribute to the convergence between flows insofar as they adjust solutions to the problem, give new understandings to the issue, and disseminate a policy image (Capella, 2016). These actors can also form coalitions and strategically disseminate information to promote changes in the agenda (Anderson, Deleo & Taylor, 2019). In the interaction among actors and in the convergence of these flows, there is a window of opportunity to introduce policy changes (Kingdon, 2003; Zappellini, 2014).

The model by Baumgartner and Jones (1993) allows analyzing the evolution of public policies over time through the notion of punctuated equilibrium, characterized by long periods of stability interrupted by relatively sudden changes of policy issues attention and understanding. The stage at which an issue is discussed can influence the trend towards change or stability. Early stages are associated with public preferences and are more likely to change. Further advanced stages reveal resistance to promoting changes in a given policy. Institutional characteristics contribute to this resistance (Baumgartner, Jones & Wilkerson, 2011), as observed in cases where voting on a bill is carried out in several stages. Other factors can influence agenda dynamics, such as the incumbent government, cultures, and beliefs, in addition to external actors (Chaqués-Bonafont et al., 2015). For example, both the pro-life position of the Catholic Church and the pro-choice position of the feminist movements influence abortion policy (Calkin & Kaminska, 2020; Munson, 2018).

Baumgartner et al. (2011) analyzed the agenda-setting by demonstrating that time can help to identify which elements are causing policy changes, whether it is a matter of ideology, transnational issues, partisan decisions, or a specific dynamic. Activists, litigants, or voters can bring items to the government agenda. However, these items come more often from organized collective actors (Wu et al., 2014) – or interest groups – such as religious organizations, companies, unions, associations, or think tanks. For Baumgartner and Jones (2015), information is a central element in politics; consequently, interest groups operate with information strategies, seeking to draw attention to elements of the debate that can support their points of view.

Baumgartner and Jones (1993) offer four elements or dimensions to describe the definition of conflict: (1) **attention**: the size of the audience and the scope of the debate over time; (2) **actors**: the constellation of actors involved, or policy subsystem; (3) **image**, or definition of the problem: the framework given to the policy based on a specific perspective. It may reflect, for example, a pro, anti, or neutral tone regarding change; and (4) **institutional venue**: the space where the policy discussion takes place. Stakeholders can try to move issues to a different forum and destabilize the existing equilibrium by creating policy change (Engeli et al., 2012). In this case, the actors act as policy entrepreneurs who seek to take advantage of the windows of opportunity.

Chaqués-Bonafont et al. (2015) analyze changes in the attention and image of abortion policy in the Spanish parliament and in two Spanish newspapers, over the years, to understand the relationship between image, political parties, and the media. They argue that image, preferences, religious values, and institutional factors influence stability and change. Government control by left or right-wing parties and the type of government are important predictors of access to the agenda and policy change.

The media influence and the arguments in pronouncements also appear in Brazilian studies, although they do not use the agenda dynamics framework. These studies address the arguments of political actors about abortion (Miguel et al., 2017) and the media's role in agenda-setting and in the 2010 electoral debates (Barreras, 2013; Mantovani, 2014). The right to life has been the most cited argument in pronouncements in the Chamber of Deputies – 61% of them favor maintaining the restrictions of the current legislation (Miguel et al., 2017). As Birkland (2005) demonstrates, policy monopolies are common in the field of public policies, but they can be broken by the actions of the media, interest groups, or political parties.

Other studies discuss the Brazilian Supreme Court's deliberations, as in the Claim of Non-compliance with Fundamental Precept (ADPF) 54 (STF, 2013), which voted in non-punishable abortion when anencephaly is diagnosed (Machado & Cook, 2018). Two ADPFs are under analysis since 2007 involving the “voluntary termination of pregnancy” before 12 weeks of pregnancy in cases of microcephaly. Public hearings were held in August 2018, with the participation of interest groups (STF, 2017), and the debate is ongoing. The Supreme Court's participation demonstrates a breach of the policy monopoly since the discussion on abortion, previously limited to Congress, advanced to the judiciary branch.

## METHODOLOGY

This section describes the methodological procedures for collecting, analyzing, and describing the results. Documentary research was performed to collect data from the records available on the Senate platform and consequent quantitative and qualitative analysis, seeking to examine the tone regarding abortion and the content of the arguments exposed in the actors' pronouncements, legislative propositions, and events (Bardin, 2009).

The research covers the period between 1988 and October 2020, a time frame consistent with the approach of Baumgartner et al. (2011) to analyze the developments of the 1988 Brazilian Federal Constitution. The search for the term "aborto" (abortion) was carried out in December 2017 and later updated to include the records until October 15, 2020. Related terms such as "abortamento" (aborting) and "*interrupção voluntária da gravidez*" (voluntary termination of pregnancy) were also considered. The search for the terms "óbitos fetais" (fetal deaths) or "mortalidade fetal" (fetal mortality) did not produce any results.

The research was conducted based on the theoretical-analytical model set out in Box 1, focusing on the attention and image attributed to the morality policy of abortion during the period.

**Box 1**  
**Theoretical-analytical model**

Theoretical element, according to the punctuated equilibrium theory	Empirical elements	Selected data
• Forum	• Brazilian Senate.	• Period: 1988 to October 15, 2020.
• Attention	• Legislative production per year. • Pronouncements by senators per year. • Public hearings conducted.	• n = 33 propositions. • n = 295 pronouncements. • n = 6 audiences.
• Actors	• Internal actors: senators who pronounce or forward propositions about abortion. • External actors: participants in public hearings with actors cited.	• n= 95 senators, over the period. • n = 45 internal and external actors.
• Image - Subcategory: tone of the policy (preference)	• Pronouncements pro-decriminalization of abortion (pro-choice). • Pro-life pronouncements. • Neutral pronouncements. • Number of pronouncements by political party.	• Pronouncements, per year, classified by policy tone. • Content of the pronouncements: actors, legislation, events, and events cited.

Source: Elaborated by the authors.

The search on the Senate platform was restricted to (1) legislative propositions (43 records), since discussions on new legislation indicate attempts to change the agenda (Anderson et al., 2019) and reflect the degree of attention on the issue; (2) pronouncements by senators about the issue of abortion (458), considering the tone adopted, whether they are pro-life, pro-choice, or neutral, and (3) public hearings held during the period. Basic data of propositions and pronouncements were categorized in a Microsoft Excel spreadsheet containing: (a) legislative propositions – authorship, origin, party, project number, tone, year, content, last place of processing, last state, rapporteur, and access link; (b) pronouncements – the senator's name, sex, political party, date, tone of the speech, excerpt explaining the tone of the speech, and access link. For the analysis of the public hearings, news and content were accessed to identify participants.

Of the 43 legislative propositions, 33 that deal with legal aspects related to abortion were selected (the other ten were excluded from the sample, as they address other issues, such as road traffic, work, and the environment). Of the 458 pronouncements on abortion, 22 were not available, the majority dating from 1988; another 141 records cited the term but did not address the issue. For this analysis, 295 available pronouncements directly discussing abortion – legislation and implications – were selected.

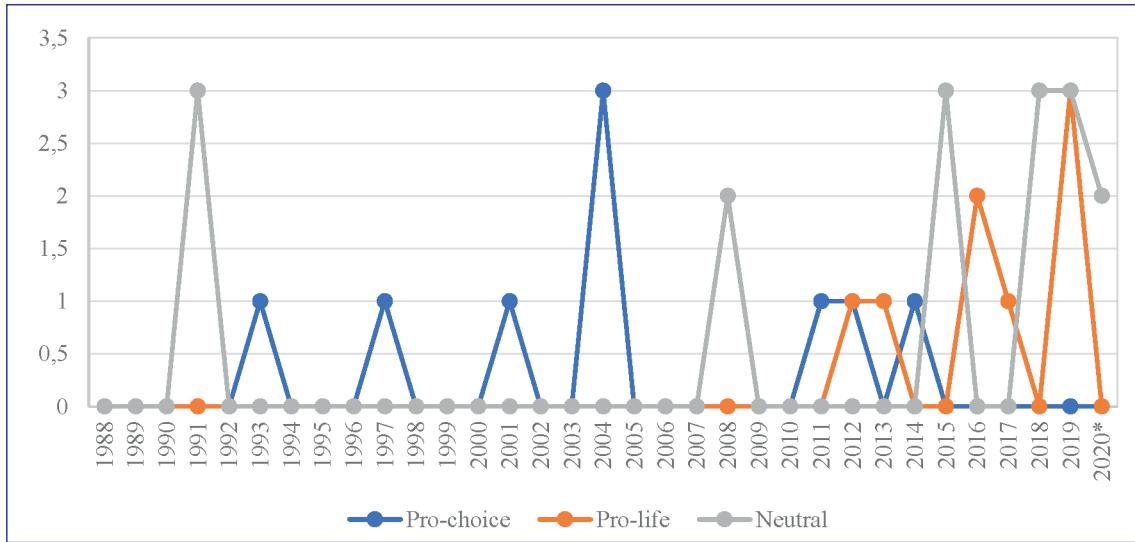
The analysis of the tone attributed to the policy – pro-choice, pro-life, or neutral – took place in three stages. First, the pronouncements were read individually, in chronological order. Another researcher carried out the second stage, which consisted of revising the pronouncements on which there were doubts regarding the tone. A joint analysis was conducted in the third stage, observing the material per senator and political party. The tone of the legislative propositions was analyzed as pro-choice when the projects sought to change the current legislation to decriminalize abortion or even include situations in which it may be allowed, whereas the pro-life tone corresponded to the propositions intended to maintain the current legislation or seek to criminalize abortion or its incitement. Neutral propositions and pronouncements were procedural and technical; they did not assume a predominant tone.

The analysis of the material collected from the public hearings allowed identifying participants internal and external to the government and the tone used to describe the problem and solutions. Eight audiences related to the theme were found, and six were selected due to their direct relationship with the issue. The following section presents the main results of the research, considering the number and tone of propositions and pronouncements over the years, the proposed legislative solutions and arguments listed, as well as the actors participating in public hearings.

## RESULTS

This section presents the results of the analysis of legislative propositions, pronouncements, and public hearings. Of the 33 propositions selected, five are applications to carry out public hearings, submitted to the Senate's Human Rights Commission (HDR). Five were Information Requirements (RQS), one is a suggestion of law (SUG 15, 2014), and the others are Senate bills (PLS), which mainly addresses articles 124 to 128 of Decree-Law 2848 (1940) of the Brazilian Penal Code, in cases where the abortion is or is not punishable. Graph 1 shows the number and tone of the propositions over time.

**Graph 1**  
**Number and tone of the legislative propositions about abortion in the Brazilian Senate**



Note: \* Includes propositions made before October 15, 2020

Source: Elaborated by the authors.

Pro-choice legislative propositions were concentrated in the periods from 1993 to 2004 and from 2011 to 2014. During these years, nine bills in the Senate favored abortion decriminalization, with the majority seeking to amend Decree-Law 2848 (1940). Eight pro-life propositions have been presented since 2012 to maintain the current regulation or criminalize the induction and incentive for abortion, the announcement of abortion methods, and abortion at any pregnancy stage. Among the 16 legislative propositions classified as neutral, four were bills, and two of these bills sought to amend Law 9263 (1996) on family planning.

Box 2 presents authors, their respective propositions and content, organized according to the policy's tone.

### Box 2

#### Tone, authorship, and content of legislative propositions on abortion in the Brazilian Senate (1988 – October 15, 2020)

Tone	Authorship	Proposition and content
Pro-choice	Eva Blay (PSDB/SP)	PLS 78/1993 – Provides for the practice of abortion and amends Decree-Law 2848 (1940).
	Carlos Patrocínio (PFL, TO)	PLS 28/1997 – Amends Law 9263 (1996) on family planning.
	Prof. Luizinho (PT/SP) – Câmara	PLS 18/2001 – Makes it mandatory for civil servants in police offices to inform victims of rape on the right to abortion.
	Duciomar Costa (PTB/PA)	PLS 183/2004 – Amends Decree Law 2848 (1940), including cases of fetal anencephaly.
	Mozarildo Cavalcanti (PPS/RR)	PLS 227/2004 – Amends Article 128 of Decree-Law 2848 (1940) to prevent punishment of doctors performing abortions in cases of anencephaly.
	Marcelo Crivella (PL/RJ)	PLS 312/2004 – Amends Decree Law 2848 (1940) to include a permission to terminate pregnancy in the law's unlawful exclusions.
	Mozarildo Cavalcanti (PTB/RR)	PLS 50/2011 – Amends Decree Law 2848 (1940) to state that abortion is not punishable in cases of fetal anencephaly when the procedure is consented by the pregnant woman or her legal representative.
	José Sarney (MDB/AP)	PLS 236/2012 – Reforms the Brazilian Penal Code; amends Article 128, adding cases in which abortion is not considered a crime.
Pro-life	Programa e-Cidadania	SUG 15/2014 – Allow the voluntary termination of pregnancy within the first 12 weeks of pregnancy with medical procedures carried out in the Brazilian Health System.
	Maria do Carmo Alves (DEM/SE)	PLS 287/2012 – Amends Article 128 of Decree-Law 2848 (1940) to provide for the crime of termination of pregnancy in case of anencephaly.
	Magno Malta (PR/ES)	RDH 18/2013 – Requires a public hearing to discuss the decision of the Federal Council of Medicine to perform abortion at twelve weeks of pregnancy.
		PLS 46/2017 – Amends Decree Law 2848 (1940) to criminalize the practice of abortion at any stage of pregnancy.
	Pastor Valadares (PDT/RO)	PLS 460/2016 – Amends Decree Law 2848 (1940) to criminalize the induction and incentive of abortion and publicizing abortion means; require the corpus delicti exam and prior communication to the police authority in order to avoid punishment for abortion resulting from rape; Amends Law 12845 (2013) to improve the wording of articles 1 to 3.
		PLS 461/2016 – Amends Decree Law 2848/1940 to criminalize the practice of abortion at any stage of pregnancy.
Neutral	Eduardo Girão (PODEMOS/CE)	PL 556/2019 – Raise the penalty for the crime of abortion caused by a third party, with the consent of the pregnant woman, and create a cause for increased penalty.
		PL 848/2019 – Dissemination of information of an educational and preventive nature that can contribute to reducing the incidence of teenage pregnancy.
	Flávio Arns (REDE/PR)	PL 2574/2019 – Criminalizes abortion motivated by fetal malformation.
Neutral	Darci Ribeiro (PDT/RJ)	RQS 71/1991 – Requests information on abortion from the Minister of Justice.
		RQS 75/1991 – Requests information on abortion from the Minister of Health.
	Nelson Carneiro (sem partido/RJ)	RQS 668/1991 – Requests transcription in the annals of Dr. Hélio Aguinaga's article entitled " <i>Aborto fora do útero</i> " (abortion outside the womb), published in the newspaper O Globo on September 29, 1991.

*Continuation*

Tone	Authorship	Proposition and content
Neutral	Expedito Júnior (PR/RO)	PLS 48/2008 – Provides for the pregnant students to pause internships.
		PLS 54/2008 – Changes the Internal Regulation to provide 30 days of paid leave to pregnant senators, in case of stillbirth or abortion; five days to the senator whose spouse or partner is in that situation.
	Magno Malta (PR/ES)	RDH 24/2015 – Requests public hearing to discuss SUG 15/2014.
	Paulo Paim (PT/RS)	RDH 36/2015 – Requests public hearing to discuss SUG 15/2014.
	Regina Souza (PT/PI)	RDH 33/2015 – Requests public hearing to discuss the Amnesty International Report that reveals concern about violence, abortion, and impunity.
	Magno Malta (PR/ES) e outros	RDH 68/2018 – Requires public hearing to discuss ADPF 442 on the decriminalization of abortion up to the first twelve weeks, pending in the Supreme Court.
	Maria do Carmo Alves (DEM/SE)	PLS 291/2018 – Amends Law 9263/1996 (family planning) to revoke the prohibition on surgical sterilization during childbirth or abortion, and the requirement for the express consent of both spouses.
	Randolfe Rodrigues (REDE/AP)	PLS 107/2018 – Amends Law 9263/1996 to facilitate access to sterilization and vasectomy procedures.
	Comissão de Assuntos Sociais	RQS 1067/2019 – Consult the Supreme Court regarding the process that concerns the hypothesis of the practice of abortion by pregnant women infected with the Zika virus.
	Flávio Arns (REDE-PR)	RQS 44/2019 – The same request as RQS 1067/2019.
Humberto Costa (PT/PE)	Eduardo Girão (PODEMOS/CE)	RQS 28/2019 – Requests approval to conduct an interdisciplinary seminar to discuss issues involving Zika virus and microcephaly.
		RQS 1706/2020 – Requires information from the Minister of Health on sexual and reproductive rights.
		RQS 1316/2020 – Requires information on the provision of sexual and reproductive health actions and services during the COVID-19 pandemic.

Source: Elaborated by the authors.

The Supreme Court's judgment on the Claim of Non-compliance with Fundamental Precept (ADPF) 54 (STF, 2013) – situation of fetal anencephaly – was impactful for interest groups external and internal to Congress, as it signaled, for the first time, a change in the policy forum. Since then, debates in the Senate have intensified, with public hearings and more restrictive projects on abortion taking place, which indicates a greater concern in ensuring the positioning of abortion as a crime in the face of suggestions for its decriminalization.

One highlight in the debate was the legislative suggestion SUG 15 (2014), initiated in the Brazilian Senate's e-Citizenship platform with the support of 20 thousand citizens. The proposal was to regulate voluntary abortion within the first 12 weeks of pregnancy. It was discussed at five public hearings to promote a wide-ranging discussion with various actors. The Senate's Public Consultation of SUG 15/2014 received 423,403 votes in favor and 381,116 against, but in return, 34 city councils and the Legislative Assembly of the State of Goiás sent motions of repudiation against the decriminalization of abortion. After these hearings, more restrictive abortion projects were presented. At the end of 2018, SUG 15/2015 was archived.

Among the bills presented in Box 2, eight are in progress: PLS 48/2008, sent to the Chamber of Deputies; PLS 460 and PLS 461, 2016, ready to be discussed, according to the agenda of the Commission of Constitution, Justice and Citizenship Commission (CCJC); PLS 107/2018, which deals with facilitating access to medical procedures such as ligation and vasectomy; PLS 236/2012, a bill dealing with the reform of the Penal Code, to which PLS 460/2016 was attached; PLS 225/2019, which suggests raising the penalty for the crime of abortion caused by a third party; PLS 848/2019, on the dissemination of information of an educational nature related to the reduction of the incidence of teenage pregnancy and on the risks of abortion; and PLS 2574/2019, which criminalizes induced abortion motivated by fetal malformation.

Magno Malta's (PR-ES) Application RDH 68 (Senado Federal, 2018), to hold a Public Hearing on ADPF 442 (STF, 2017), was archived. In the application, the senator had proposed the discussion of the ADPF's content, decriminalization of abortion until the twelfth week of pregnancy, as well as the "judicial activism of the Supreme Court" (Senado Federal, 2018, p. 3). Senator Malta's bill to amend the constitution (PEC 29/2015) (Senado Federal, 2015, p. 1, our translation) proposed to add to Article 5 of the Constitution "[...] the unequivocal explanation of the inviolability of the right to life, from conception," was signed by another 28 senators. PEC 29 (2015), archived at the end of 2018, was unarchived in February 2019 by Senator Eduardo Girão (Pode/CE). As reported by the Brazilian Senate (2019, p. 2, our translation), "[...] several senators supported the procedure of unarchiving the PEC so that the Senate and the Chamber of Deputies can debate and analyze the issue so as not to let the Supreme Federal Court (STF) invade the competences of the National Congress."

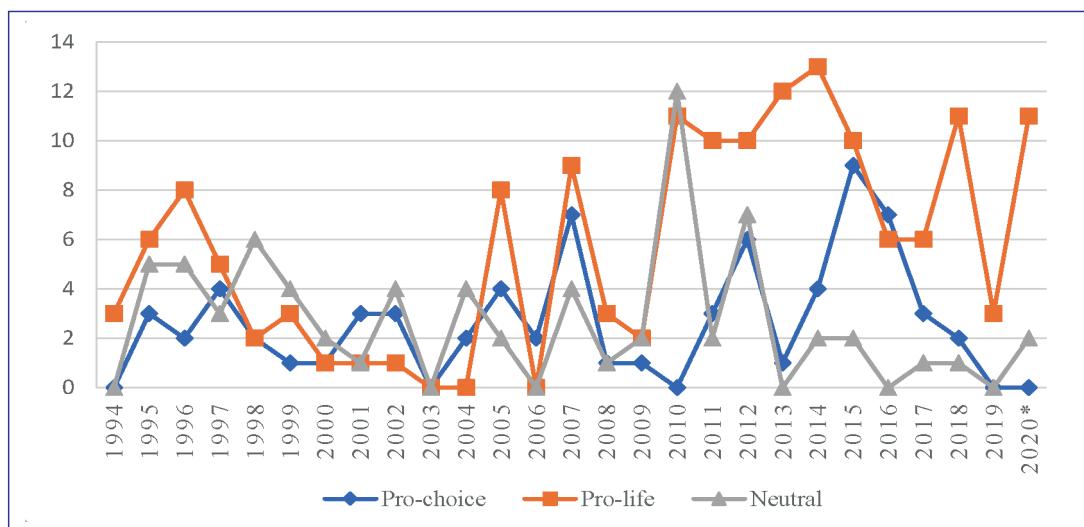
## Analysis of the pronouncements in the Brazilian Senate

Graph 2 shows the number and tone of pronouncements by senators per year. The research found 72 pronouncements of neutral tone (24.4% of the total), 71 pro-choice pronouncements (24.1%), 152 pro-life pronouncements (51.5%).

The number of pro-choice pronouncements is usually lower than the number of pro-life pronouncements, except for certain periods, such as between 2001 and 2004 and in the years 2006 and 2016. From 2017 onwards, pro-life pronouncements predominate, with a greater number in the 2018 election year and oscillating from then on.

During President Fernando Henrique Cardoso's term, the pro-life pronouncements outnumbered the pro-choice ones. In 2001, there was a change in the tone, with more pro-choice and neutral positions. Interestingly, in 2003, after the election of President Luiz Inácio Lula da Silva, there were no pronouncements on abortion.

**Graph 2**  
**Number and tone of the senators' pronouncements per year**



Note: \* Includes propositions made before October 15, 2020.

Source: Elaborated by the authors.

In 2004, the debate resumed with a predominance of pro-choice positions. In 2005, the number of pro-life pronouncements increased, starting a period of fluctuations in the number of pronouncements. In 2010, abortion gained space in the media agenda (Barreras, 2013; Mantovani, 2014) and more attention from the Senate, especially during the second round of the elections, with predominantly neutral pronouncements.

As of 2011, during President Dilma Rousseff's first term, the pro-life pronouncements stand out, mainly due to the continued participation of Magno Malta (political party – PR/Brazilian state – ES). The pro-choice positions come mainly from Vanessa Grazziotin (PCdoB/AM), Marta Suplicy (PMDB/SP), and Humberto Costa (PT/PE).

The electoral years usually show more pro-life pronouncements, as observed in 2010, 2014, and 2018. This may be related to the controversy involving the debate between the presidential candidates and the influence that the media directs to the issue of abortion, especially in the second round of the 2010 elections (Barreras, 2013; Mantovani, 2014). Between 2013 and 2016, there was an increase in the number of pro-choice positions and a decrease in pro-life and neutral pronouncements. As of 2017, pro-life positions predominate. After the result of the 2018 presidential elections, the pro-life position was accompanied by the preference for stability on this issue, following the position of President Jair Bolsonaro.

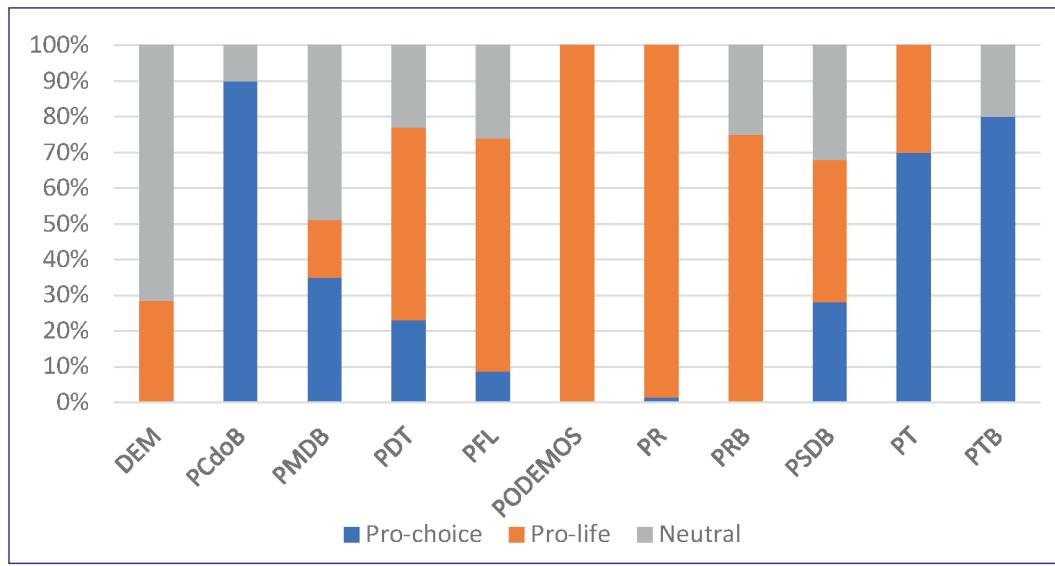
Of the 295 pronouncements, 24 are from participants in the Commission on Human Rights and Participatory Legislation (CDH), including its current president, Paulo Paim (PT/RS). Considering the Mixed Parliamentary Fronts (FPM), five pronouncements are from FPM members in Defense of Life and Against Abortion, 15 are from the FPM for Women's Human Rights. Magno Malta's pronouncements correspond to participation in the FPM of the Family and Support for Life and Pregnant Women (54<sup>th</sup> legislature). On average, there are three pronouncements per senator; however, some had a number well above this, suggesting greater engagement with the issue, whether pro-choice or pro-life. Of the 54 pronouncements by women, 28 (51.8%) were pro-choice, followed by 21 (38.9%) neutral, and five (9.3%) pro-life. Of the 241 male pronouncements, there were 43 (17.8%) pro-choice, 51 (21.2%) neutral, and 147 (61.0%) pro-life.

The lower number of female pronouncements may be related to the number of women in the Senate. Between 1988 and 2018, a maximum of 17 female senators entered the Brazilian Senate in the same legislature (the Senate is formed of 81 members).

The examination of the tone of the pronouncements per political party revealed that parties do not have a homogeneous position on the issue. Graph 3 presents those with at least four pronouncements in the period and the arguments' respective tone.

Pronouncements of senators from the parties PCdoB, PT, and PTB follow a predominantly pro-choice tone, as observed in the case of senators Paulo Paim (PT/RS, n = 5 pronouncements), Marta Suplicy (originally from PT, changing party to PMDB/SP, n = 8), and Vanessa Grazziotin (PCdoB/AM, n = 8). Gilvam Borges (PMDB/AP, n = 11) takes a pro-choice position, and PMDB and PSDB have mixed positions.

**Graph 3**  
**Percentage of the tone of pronouncements per political party**



Source: Elaborated by the authors.

More recently, pro-life tones predominate in pronouncements of senators from the parties PDT, PFL (the party changed the name to DEM during the period analyzed), Podemos, PR, and PRB senators: Odacir Soares (PFL-DEM/RO, n = 11 pronouncements), especially in the 1990s; Magno Malta (PR/ES, n = 67 pronouncements), and Eduardo Girão (Podemos/CE, n = 11 pronouncements).

Policies for women's health, family planning, and combating violence against women are not exclusive arguments for pro-choice, pro-life, or neutral positions. Some pronouncements occur at moments when these policies are defined and recall significant events, such as the Fourth World Conference on Women in Beijing, the Cairo Conference, the Program for Comprehensive Care for Women's Health (PAISM), and May 28, International Day of Action for Women's Health.

Box 3 presents arguments of pronouncements that illustrate the tone of the political image according to the chronological order in which they appear.

**Box 3**  
**Arguments on pronouncements in pro-choice, pro-life, and neutral**

Tone	Senators' arguments in chronological order
Pro-choice	<p><i>Women must have the right to terminate a pregnancy [...] how many women die, Mr. President, and senators? Thousands</i> (Borges, 1996).</p> <p><i>Vulnerability is accentuated in health. Five hundred thousand women die annually during pregnancy and childbirth in the country. [...] Two hundred thousand die during the year as a result of unsafe abortion</i> (Grazziotin, 2012).</p>
Pro-life	<p><i>Likewise, when I fight against legalizing abortion [...], I am emphasizing the need to protect those who are the most fragile and innocent</i> (Soares, 1996).</p> <p><i>Life begins at conception, and abortion after conception is brutal murder</i> (Malta, 2013).</p> <p><i>It is not just the baby's life that is destroyed – which is already a lot to take – with abortion; the health of women, as evidenced by science and social statistics in Brazil and around the world, is compromised emotionally, psychologically, and even physically</i> (Girão, 2019).</p>
Neutral	<p><i>In this program, information is vital. So, we have to provide all the women of our country and all young girls – from puberty – the necessary information so that there are no unwanted pregnancies, induced abortion and, as you stressed, the high number of women who are mutilated – when not killed – in these clandestine clinics, arriving at the hospital with complications</i> (Patrocínio, 1998).</p>

Source: Elaborated by the authors.

When building their arguments, pro-choice senators constantly use statistical data on maternal mortality and abortion. However, the reliability of such data is questionable, and pro-life actors often challenge the information presented. Another rhetorical pattern in pro-choice pronouncements is the preference for the term "termination of pregnancy." Thus, the information strategy – central to the public policy process (Baumgartner & Jones, 2015) – is used to either expose or challenge arguments.

Mentions of the church and religious beliefs are used in pro-choice arguments – as criticism of their influence in the debate – and pro-life arguments – as elements supporting the position since they represent values of part of the population.

From the pro-life perspective, the arguments used are the defense of life from conception, the understanding of abortion as the murder of innocents, in addition to arguments of a religious nature, and mentions to positions of Pope John Paul II. Milder pro-life tones admit the non-punishable cases provided for in the Penal Code and in the decision of the ADPF 54 (STF, 2013). The pronouncements classified as neutral, in turn, seek to build an image of the policy that links different perspectives on the issue, such as when relating the problem of maternal mortality and the consequences of abortion.

The public hearings emerged in this context of legislative proposals and pronouncements in the Senate. This forum intends to expand the debate with society, allowing to address the preferences of actors external to the Senate.

## Public hearings as focalizing events

Of the six public hearings, five discuss SUG 15 (2014), and the other discusses a report produced by Amnesty International. The debates presented oppositional and controversial positions in favor of the decriminalization of abortion and the decision-making right of women (pro-choice), or against abortion and in defense of life from conception (pro-life).

In addition to the presence of senators and some federal deputies, there was significant participation of scholars, especially from the medical and legal fields, pro-life activists, feminist activists, founders of organizations that support pregnant women, representatives of national institutions interested in the issue, and religious representatives. Box 4 lists the external and internal participants and organizations according to their tones (pro-choice or pro-life).

The participants addressed topics such as sexual and reproductive rights, women's health, maternal mortality, pregnancy, and the right to life from conception, recommendations from the World Health Organization (WHO) and the Federal Council of Medicine (CFM), and quoted research in partnership between Ministry of Health and UnB (Diniz & Medeiros, 2010), considered as a source of information for the debate. Débora Diniz participated in a Senate hearing, acted for changes in the Supreme Court's debates, and engaged in the discussion of the ADPF 54 (STF, 2013). Two senators also cited her study in bioethics in pronouncements in 2001.

**Box 4**  
**Participants of public hearings in the human rights commission, pro-choice and pro-life**

Tone	Type	Participants and Organizations
Pro-choice	External from government	<ol style="list-style-type: none"> <li>Ana Maria Costa, <i>Centro Brasileiro de Estudos da Saúde</i> (CEBES) (Brazilian center of health studies).</li> <li>Beatriz Galli, <i>Com. Latino-Americano e Caribe Defesa Direitos da Mulher</i> (CLADEM) (Latin American and Caribbean committee on women rights).</li> <li>Professor Débora Diniz, <i>Instituto de Bioética, Direitos Humanos e Gênero – ANIS/UnB</i> (Institute of bioethics, human rights, and gender).</li> <li>Eloísa Machado Almeida, lawyer and activist.</li> <li>Henrique Batista e Silva, General Secretary of the Brazilian Federal Council of Medicine (CFM).</li> <li>Ilka Teodoro, Coordinator of the Women Commission of the Brazilian Bar Association (OAB).</li> <li>Jolúzia Batista, sociologist, <i>Frente Nacional contra a Criminalização das Mulheres e pela Legalização do Aborto</i> (National front against criminalization of women and for the legalization of abortion).</li> <li>José Eustáquio Diniz Alves, <i>Escola Nacional de Ciências Estatísticas – ENCE/IBGE</i> (National school of statistical science).</li> <li>Leila Linhares, lawyer and activist.</li> <li>Letícia Bonifaz, Mexican senator and professor.</li> <li>Márcia Tiburi, professor at the Mackenzie Presbyterian University.</li> <li>Maria José Rosado Nunes, <i>Católicas pelo Direito de Decidir</i> (Pro-choice Catholic women).</li> <li>Maria Teresa Blandón, Nicaraguan feminist activist.</li> <li>Melânia Amorim, physician obstetrician.</li> <li>Olímpio Barbosa Moraes Filho, <i>Federação Brasileira de Ginecologia e Obstetrícia</i> (Brazilian federation of the gynecology and obstetrics).</li> <li>Rosângela Aparecida Talib, <i>Católicas pelo Direito de Decidir</i> (Pro-choice Catholic women).</li> <li>Sandra Valongueiro, researcher at the Federal University of Pernambuco.</li> <li>Sônia Correa, <i>Associação Brasileira Interdisciplinar de AIDS</i> (Brazilian Interdisciplinary association of AIDS).</li> <li>Tatiana Lionço, psychologist, <i>Movimento Estratégico pelo Estado Laico</i> (Strategic movement for a secular state).</li> <li>Thomaz Gollop, physician, <i>Grupo de Estudos do Aborto</i> (GEA) (Study group on abortion).</li> </ol>
	Internal	<ol style="list-style-type: none"> <li>Jean Wyllys, Federal Deputy (PSOL/RJ).</li> <li>Maria do Socorro Souza, National Council of Health (CNS).</li> <li>Maria Esther Albuquerque Vilela, General Coordinator of Women Health at the Brazilian Ministry of Health –participated twice.</li> <li>Rurany Ester Silva, Secretary of Policies for Women.</li> </ol>

*Continuation*

Tone	Type	Participants and Organizations
Pro-life	External	<ol style="list-style-type: none"> <li>1. Adelice Leite Godoy D'Ávila, <i>Movimento Pró-Vida de Campinas</i> (SP) (Pro-life movement of Campinas).</li> <li>2. Eliane Oliveira, physician and professor, Federal University of Ceará.</li> <li>3. Elizabeth Kipman Teixeira, physician.</li> <li>4. Cláudio Fonteles, former Attorney General of the Republic.</li> <li>5. David Kyle, filmmaker, producer of "Blood Money".</li> <li>6. Dóris Hipólito, Founder of <i>Casas de Âmparo às Gestantes do RJ</i> (Shelter homes for pregnant women of Rio de Janeiro).</li> <li>7. Fernanda Takitani, professor, <i>Observatório Interamericano de Biopolítica</i> (Inter-American observatory of biopolitics).</li> <li>8. Heloísa Helena, city councilor (PSOL/AL), former senator.</li> <li>9. Isabela Mantovani, specialist in public health.</li> <li>10. Lenise Garcia, professor of the Institute of Biological Sciences of the University of Brasilia – UnB and President of the <i>Movimento Brasil sem Aborto</i> (Brazil without abortion Movement).</li> <li>11. Nazareno Vasconcelos Feitosa, <i>Movimento Brasil Movida</i>, DF (Brazilian movement Movida).</li> <li>12. Padre Berardo Graz, representative in defense of life of the South Chapter of the National Conference of Bishops of Brazil (CNBB).</li> <li>13. Priest Paulo Ricardo.</li> <li>14. Priest Pedro Sepien, national director of <i>Pró-Vida</i> (Pro-life).</li> <li>15. Rosemeire Santiago, director of the <i>Centro de Reestruturação para a Vida</i> (Restructuring center for life).</li> <li>16. Sara Winter, activist pro-life, SP.</li> <li>17. Stela Barbas, PhD in law and professor, Portugal.</li> <li>18. Viviane Petinelli e Silva, <i>Instituto Políticas Governamentais do Brasil</i> (Brazilian institute of governmental policies).</li> </ol>
	Internal	<ol style="list-style-type: none"> <li>19. Damares Alves, civil servant of the Brazilian Senate, advisor of the Parliamentary Front for Family.</li> <li>20. Luiz Bassuma (PT/BA), Federal Deputy, author of the bill proposing the statute of the unborn child.</li> <li>21. Marco Feliciano, Federal Deputy (PSC-SP) – participated twice.</li> </ol>

Source: Elaborated by the authors.

Pro-choice lawyers emphasize that the Supreme Court has taken up this issue in other countries suggesting this forum for seeking policy changes. "Feminist activist Leila Linhares, also a lawyer, noted that international constitutional courts when dealing with abortion tend to regulate the practice within twelve weeks" (Senado Federal, 2016, p. 5 our translation).

ADPF 442 (STF, 2017), forwarded by the political party PSOL to the Supreme Court, illustrates an attempt to seek change for the decriminalization of abortion via this forum. When applying the theory of punctuated equilibrium to Supreme Court decisions, Gillman (2002) describes this strategy as "entrenchment," in which political parties use the Supreme Court to advance their agendas by removing political debate from the electoral arena (Gillman, 2002; Robinson, 2013). However, as discussed by the senators, the Supreme Court's competence cannot override the legislature's role or even add external content to that provided for in the Constitution, which would be judicial activism, according to the senators. Thus, in the Senate, the discussion tends to maintain the image of abortion according to the preference of the pro-life majority, maintaining the monopoly of policies, legislative proposals, and pronouncements, while public hearings were focalizing events that challenged the predominant image of the issue.

The pronouncements also revealed new images for the issue, framing abortion not only as a crime (problem), but also as a right (solution). This new image has gained more space for discussion in the Supreme Court, especially since 2004, with ADPF 54 (STF, 2013), forwarded by an actor outside the government, and ADPF 442 (STF, 2017), forwarded by a political party. In view of this, senators question the Supreme Court's role as a forum for deliberations on the issue. When provoking changes in the legislation via ADPF 54 (STF, 2013) as a faster way to promote changes, the Supreme Court avoids the legislative procedures that should occur in the Congress, which is the forum with the legitimate mandate to represent the population. The Senate ends the period analyzed in this study leaning toward stability and revealing small incremental changes. The deliberations

on the draft reform of the Penal Code (PLS 236, 2012), of PEC 29 (2015), resumed in 2019, as well as the judgment of ADPF 442 by the Supreme Court (2017) remain open. This is part of a political context in which the president and the Minister of Health are key actors, insofar as they deal with the controversies of different positions and implement policies based on their preferences.

Box 5 below lists the main factors that promoted changes in the attention and image of abortion-related policy in the Brazilian Senate:

**Box 5**  
**Factors that affect the abortion agenda in the Senate – 1988 to October 2020**

Abortion agenda in the Senate – 1998-October 2020	Factors
	1. Promotion of new policy images.
	2. Introduction/addition of new policy forums (the STF).
	3. Performance of key actors such as the president, ministers of health, and actors external to the government.
	4. New factors that make incremental changes possible – anencephaly, Zika virus, microcephaly, pandemic, reported traumatic cases.
	5. International factor, abortion in other countries.

Source: Elaborated by the authors.

This first study of the agenda dynamics regarding the morality policy of abortion is limited to the Senate. Other elements related to the agenda dynamics of abortion can be studied when examining other policy forums, public opinion, and the media.

## CONCLUSION

This article aimed to analyze the agenda dynamics of the morality policy of abortion in the Brazilian Senate between 1988 and October 2020. It was possible to identify pro-choice and pro-life positions by analyzing pronouncements and legislative propositions of senators, the parties' positions, and arguments related to policy image. It was also possible to identify the profile of external participants and the organizations they represent in debates at public hearings, as well as the emergence of new perceptions or images of the policy. External actors were mobilized during the focalizing events in public hearings held in the Senate. At the same time, the STF emerges as an alternative decision-making forum by adding changes through the Claim of Non-compliance with Fundamental Precept (ADPF) 54 (2013) in the abortion legislation (in the event of anencephaly), in which ministers will still deliberate on ADPF 442 (STF, 2017), forwarded by the party PSOL.

The analysis points out an increase in the number of pronouncements in the last decade, with a greater concentration during the years of presidential elections (2010, 2014, and 2018) since abortion is a recurrent theme in electoral debates. New legislative proposals and the increase in the number of pronouncements precede a period of several public hearings. Concerns about women's health and rights underpin pro-choice arguments intending to decriminalize abortion, whereas pro-life arguments highlight abortion as a cause of maternal and fetal mortality.

The senators' arguments are limited to citing the necessity of education and media campaigns regarding abortion decriminalization and do not contemplate the state's capacity of carrying out such activities. Proposals of incremental changes are observed, such as changes of informative-prevention nature. In general, the Senate discusses bills with opposite consequences, i.e., the legislature debates decriminalization on the one hand (in the case of the bill proposing changes in the penal code, for example), and an increase in punishment in specific cases of abortion on the other. The period analyzed was marked by stability in the Senate, with substantial changes taking place in the deliberation of ADPF 54 by the STF (2013).

The analysis in this study was restricted to the Brazilian Senate. Future research may analyze the Chamber of Deputies' pronouncements and legislative proposals and address the discussions of the Supreme Court. It is also necessary to analyze the media agenda for the same period, as suggested by Baumgartner and Jones (1993), and to explore the Supreme Court's

role and the issue of judicial activism, expanding the understanding of what has contributed to stability or change. Obtaining better knowledge of the organizations that support political entrepreneurs' participation would help discover new elements that affect the morality policy of abortion, such as the influence of the agenda of international organizations and foreign policy entrepreneurs.

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