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HTAi



CHARACTERIZATION OF LAWSUITS FOR THE SUPPLY OF ESSENTIAL MEDICINES IN THE STATE OF RIO DE JANEIRO, BRAZIL

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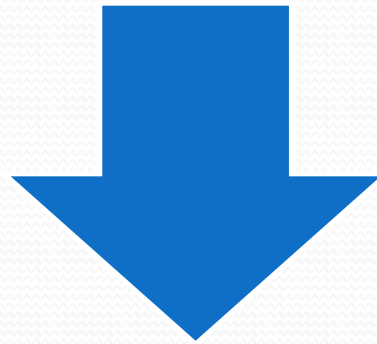
NATIONAL SCHOOL OF PUBLIC HEALTH/OSWALDO
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Introduction

- **Guaranteeing pharmaceutical services is a legal right established by the Brazilian Federal Constitution of 1988.**
- **Recognition of the right to health in Brazil raises a practical issue: the government's ethical and legal duty to ensure comprehensive health care and citizens' recourse to legal action to guarantee this right.**
- **Studies on this topic have revealed, on the one hand, deficiencies in the access of Unified Health Care System (SUS) users to medicines included in Ministry of Health official lists, and, on the other hand, limitations of the legal system to deal with the situation**

Tension Line



Health



Justice

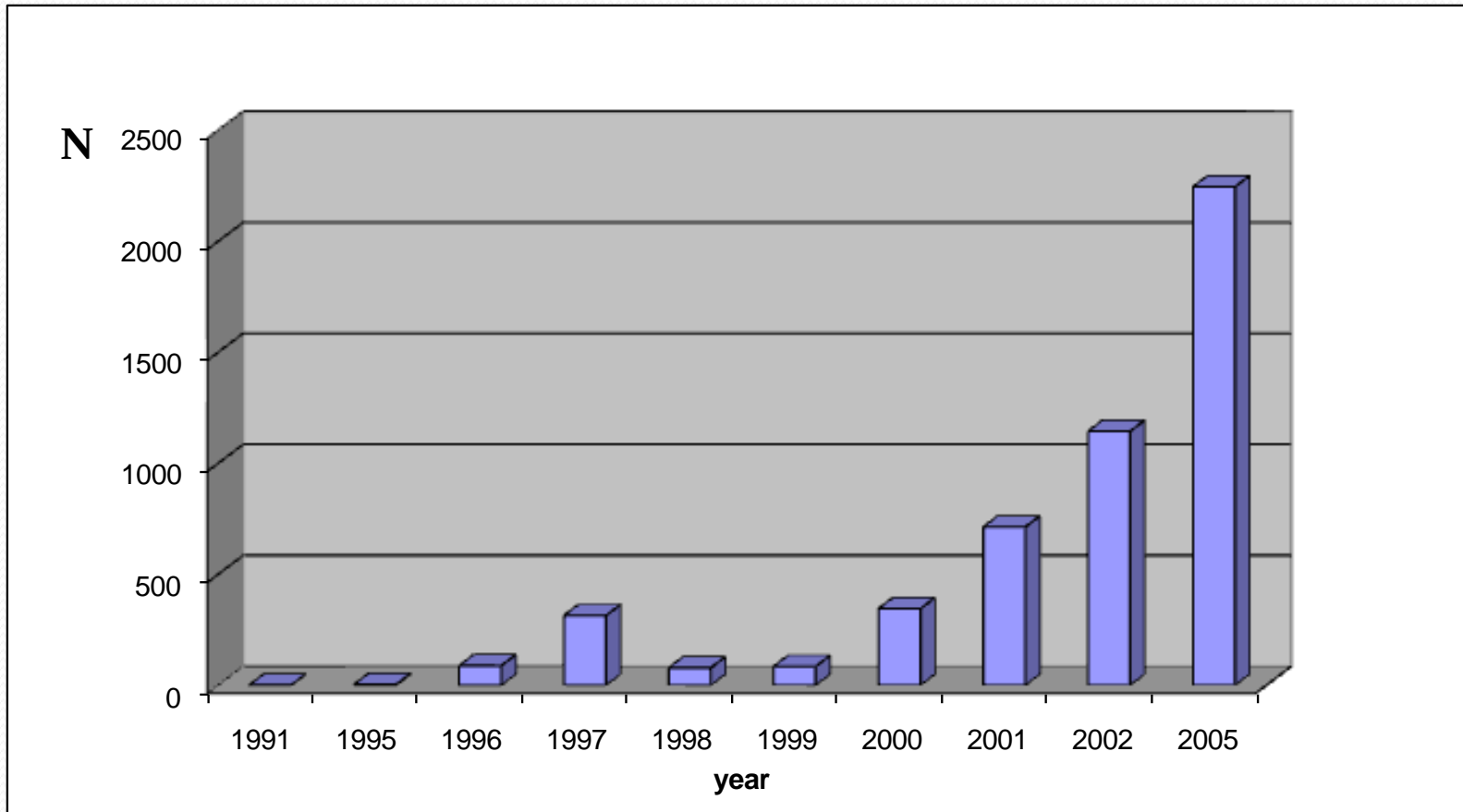


The “Epidemics” of Right to Health Litigation in Numbers			
	Number of Lawsuits against the Federal Government	Expenditure with judicial orders to provide medicines and treatment	Total Expenditure with Medicines, Federal Ministry of Health
2005	387	R\$ 2,5 million	R\$ 3,2 billion
2006	2.625	R\$ 7 million	R\$ 4,2 billion
2007	2.979	R\$ 15 million	R\$ 4.6 billion
2008 (until July)	783	R\$ 48 million	R\$ 5,2 billion

Source, Ministry of Health, Brazil

Ferraz, 2011

FIGURE – MEDICINES LAWSUITS AGAINST THE STATE OF RIO DE JANEIRO



Source : Messeder et al, 2005; Borges, 2007

Objective

This study focused on lawsuits to demand “essential” medicines, filed at the State Court of Appeals in Rio de Janeiro, Brazil, in 2006

Design and Setting

- **Descriptive study including lawsuits brought by citizens against the government in the state of Rio de Janeiro.**
- **The source of information was the data bank of the Courts of the State of Rio de Janeiro**
- **Judicial decision on lawsuits demanding medicines and which had already followed an appeal**
- **Researched for the terms “medicines” and “essential”.**

Design and Setting

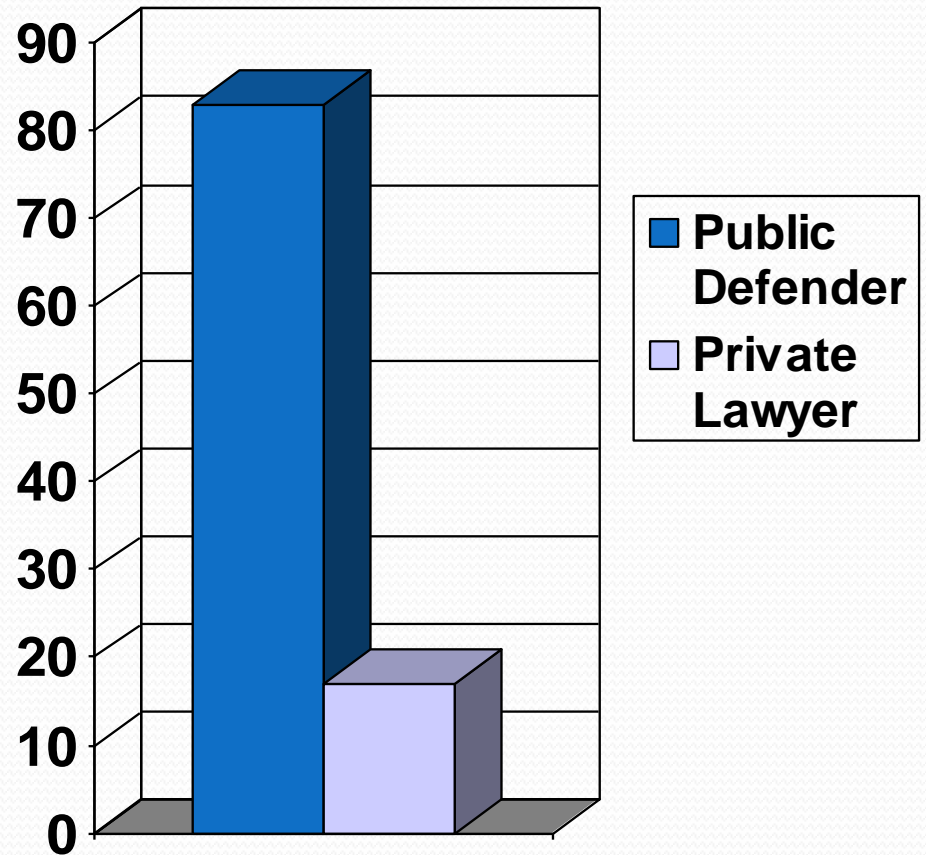
- **Argumentative analysis was performed to identify the circumstances in which medicines were considered essential for the Judiciary and for the Health System**

Results

- 185 suits were examined.
- The claims were granted in all but three cases.
- Defendants included, in 36.8% of suits, more than one government entity (state and municipality).
- Median times between filing the suit, the injunction, first ruling, and appellate ruling were 7, 239, and 478 days respectively.

**83% of the prosecutors
were represented by public
defenders**

Plaintiff's Representative



Results

- **Most of the medicines demanded were for conditions involving the cardiovascular and nervous systems ailments.**
- **316 different medicines demanded**
- **51,9% were not present on the official lists of medicines**

Official Lists of Medicines	N	%
<i>Brazilian List of Essential Medicines</i>	113	35,8
<i>Brazilian List of Essential Medicines + Exceptional Dispensation Medicines</i>	148	46,8
<i>Brazilian List of Essential Medicines Exceptional Dispensation Medicines + Other Official Lists of Medicines</i>	152	48,1
Not present on official lists	164	51,9

Results

- In 80, 6% of the 98 suits in which the specific medicines could be identified, at least one did not belong to any publicly funded list of medicines. This could indicate that lawsuits demanding essential medicines were motivated not only by problems in procurement, distribution, and dispensing but also by non-inclusion of medicines in official lists.
- In 62 actions the judge granted the injunction of pleaded medicines, and 161 of these were confirmed by a higher court.

Results

- **Reasons that lead to judicial decisions are centered in the explicated need of the plaintiff, expressed solely by the petition itself and by a medical prescription.**
- **The concept of essentiality is common to Justice and to Health; however, meanings do not converge, and this suggests the existence of a difficult dialogue between the two Systems.**
- **In the perspective of the health sector, “essential” expresses the meaning in the essential medicines concept, while for the judicial sector, “essential” is related to the plaintiff’s need of the medicine.**

Conclusions

- **Compliance with all medicines lawsuits, coupled with the median time between the injunction and the first ruling (214 days), indicates that most initial court orders remain for months without a correct assessment.**
- **The initial ruling is granted in an emergency, without a clear view of clinical benefits**

Conclusions

- **The plaintiffs remain for a long time using a medicine that, indeed, may not be protecting their health.**
- **Guaranteeing the supply of medicines is different of access to medicines and pharmaceutical care**