

# Companion Law in the media: the pandemic and its impacts on birth rights

## Lei do acompanhante na mídia: a pandemia e suas implicações nos direitos do parto<sup>1</sup>

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### Abstract

Pregnant women have the right to a companion of their choice during hospitalization, pre-delivery, delivery and postpartum, a right assured nationwide by Law no. 11,108, implemented in 2005. However, health protocols have restricted these rights on the grounds of mitigating the COVID-19 pandemic. Hence, this study sought to understand the approaches, actors involved, and arguments presented about noncompliance with the Companion Law during the COVID-19 pandemic by analyzing G1 Portal news articles published from March 2020 to April 2022, using the map feature. Results show that failure to comply with the aforementioned law occurred most often in the first half of 2020, justified by biosafety issues, lack of budget for purchasing personal protective equipment, and the atypical moment. In several places legal intervention was necessary for compliance, becoming a journalistic agenda, with the most emblematic case happening in Tocantins, where the veto lasted until April 2022. Analysis showed a discrepancy regarding law compliance in several municipalities and states, despite the Ministry of Health and several legal bodies having issued opinions and protocols recommending the presence of a companion.

**Keywords:** COVID-19; Pandemic; Birth companion; Rights of Pregnant Women; Childbirth.

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## Resumo

Gestantes têm direito a acompanhante de sua escolha durante o período de internação, pré-parto, parto e pós-parto, em todo o território nacional garantido pela Lei 11.108/2005. Contudo, com a pandemia da covid-19, protocolos de saúde restringiram esses direitos sob o argumento de cuidados contra o vírus. Buscou-se compreender abordagens, atores envolvidos e argumentações sobre o descumprimento da lei de acompanhante durante a pandemia de covid-19 por meio de análise de matérias do portal G1 publicadas de março de 2020 a abril de 2022, utilizando o recurso de mapas. Os dados evidenciaram que o descumprimento da Lei do Acompanhante se concentrou no primeiro semestre de 2020 e as principais justificativas foram questões de biossegurança, falta de orçamento para compras de equipamentos de proteção individual e o momento atípico. Em vários locais foram necessárias intervenções jurídicas para cumprimento da lei, tornando-se pauta jornalística, e o caso mais emblemático foi o do Tocantins, cuja proibição perdurou até abril de 2022. Houve uma discrepância em relação à garantia do direito em diversos municípios e estados, apesar do Ministério da Saúde e diversos órgãos jurídicos terem emitido pareceres e protocolos recomendando a presença de acompanhante.

**Palavras-chave:** Covid-19; Pandemia; Acompanhante no Parto; Direitos da Parturiente; Parto.

## Introduction

In Brazil, Law No. 11,108, of April 7, 2005, known as the Companion Law, guarantees pregnant women the presence of a companion of their choice during pre-delivery, delivery and postpartum. However, in mid-2020, with the arrival of the covid-19 pandemic, this right was restricted in several Brazilian hospitals and maternities.

This violation, in a context as vulnerable as childbirth, favored a scenario of fear, in which parturients found themselves helpless to live this moment. Diniz et al. (2014, p. 141) highlight “there are few human experiences comparable with childbirth and birth, in terms of physical, psychological and social intensity, or that are at the same time so challenging and transformative”.

The companion plays a role emotionally and psychologically important in childbirth, and is also a barrier to the possibility of violence. The national survey ‘Being Born in Brazil’ revealed the presence of a companion offers safety to the parturient and leaves her less vulnerable to violence in labor, both in public and private services (Diniz et al., 2014).

Despite this, with the covid-19 pandemic this right was curtailed in several states. Health protocols removed the power of agency and autonomy of women in childbirth, impacting the right to companionship under the argument of prevention and care due to the virus circulation. This study presents a mapping of journalistic news from the website G1 on non-compliance with Law 11,108/2005 during the covid-19 pandemic in Brazil, to understand the approaches, the devices triggered, and the arguments.

## Methods

This is a qualitative research, anchored in the conceptual assumptions of discursive practices and production of meanings (Spink, 2004), which conceives language as the place of construction of meanings in everyday life.

The study is also based on the conception that understands journalistic discourse as a possible narrative of social events. That is, the news is understood as a result of a selection and

transformation of information and occurrences, in the perspective that the journalist is not neutral, but an active participant in this process (Traquina, 2005).

Twenty news stories from the portal G1, which gathers journalistic content from branches and affiliates of the capital and interior of the Brazilian states, were analyzed. News texts and reports were selected for analysis through a search carried out from March 2020 to May 2022, based on the keywords “childbirth”, “companion” and “pandemic”. In the case of publications accompanied by television news videos, only textual writing was considered.

For data organization, a chart was produced with the following information: date, place, title, and identification of the central theme of the news. For each text, we sought to respond to the study goal, presenting how the problem was addressed, the editor’s argumentation (positions and justifications), which actors were involved in the case and, when possible, what was the outcome of the case addressed (Chart 1).

## Results and discussion

For better understanding, the information of the analyzed news can be seen in Chart 1.

**Chart 1 – Analyzed news on the prohibition of companions during the covid-19 pandemic, produced from 03/31/2020 to 04/12/2022, according to journalistic approach, argumentation, actors involved and outcome**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/ justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
1 03/31/2020 Santa Catarina “In SC, maternity hospitals prohibit the presence of a companion during childbirth amidst the coronavirus pandemic”	Prevention measure and loss of right: collective right to health overriding the individual right	Biosafety	Lawyer specializing in public health	The article presents the measure and does not mention how long the veto would last, but mentions four more hospitals in different municipalities where the measure was also valid at that time
2 04/18/2020 Palmas – Tocantins “Suspension of companions and visits to state maternity hospitals leaves families worried”	Prevention measure and loss of right: situation encompasses both monitoring in childbirth and visits in the maternity ward	Biosafety <i>versus</i> violation of rights	Public Defense Office; State Department of Health of Tocantins Social mobilization Ministry of Health (recommendations)	The Public Defender’s Office of the State of Tocantins filed a lawsuit questioning the state’s decision
3 04/22/2020 Bauru - São Paulo “Maternity suspends entry of companion from postpartum until discharge of patients in Bauru”	Prevention measure: news indicates restriction of companions in the postpartum period and visits during hospitalization	Biosafety	Law 11,108/2005 (Companion Law) Ministry of Health	Despite the suspension, the parturient was guaranteed the right during childbirth

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**Chart 1 – Continuation**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/ justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
4 04/30/2020 Belo Horizonte – Minas Gerais “Mother says she did not have the right to a companion in childbirth in a hospital in BH due to the pandemic”	Loss of rights from the perspective of a patient: expressions such as “prohibit”, “restriction” and “give birth alone” are used to describe the experience of the parturient	Biosafety	Companion Law Public Defender’s Office World Health Organization and Ministry of Health City Hall: hospital administration Infection Control Commission	Request for the creation of a municipal committee by the Public Defender’s Office of Minas Gerais
5 05/01/2020 Paranaguá – Paraná “Coronavirus: after hospital ban, pregnant woman wins the right for a companion to attend childbirth in Paranaguá”	Maintenance of the right: the expressions “decided to prohibit entry” and “won in court the right to the presence of the husband” are used to illustrate that a judicial measure was necessary to have the right guaranteed	Biosafety	Court of Justice of Paraná State Department of Health of Paraná	Decision in favor of the right to have a companion
6 05/07/2020 Campina Grande – Paraíba “Public Ministry of Paraíba recommends special attention to pregnant and postpartum women in the pandemic”	Maintenance of the right: recommendation in favor of pregnant women	Protection of the rights of pregnant and postpartum women during the pandemic	The Public Prosecutor’s Office issued the recommendation The Department of Health carried out the actions	No previous complaint was filed (apparently this is “the most complete case” and concerns the entire network) Covers prenatal, childbirth and postpartum Information on the situation
7 05/25/2020 Mogi das Cruzes – São Paulo “Preliminary injunction of the Public Defender’s Office guarantees companion for pregnant women at Santa Casa of Mogi”	Maintenance of the right: injunction in favor of guaranteeing the presence of a companion to pregnant women	Class action for guarantee of rights	Public Defender’s Office acted from the popular mobilization; State and Municipal Health Departments Companion Law Ministry of Health	Preliminary injunction was already in effect when the news was published. Final guidance is for denunciation if the right to a companion is denied

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**Chart 1 – Continuation**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/ justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
8 05/29/2020 Mogi das Cruzes – São Paulo "Santa Casa of Mogi das Cruzes complies with court order for the return of pregnant women's companions"	Maintenance of the right: action of the Public Defender's Office obliges Santa Casa of Mogi das Cruzes to guarantee the right to companions, previously reported (news 7)	Biosafety and Budget Restriction	Public Defender's Office of Mogi das Cruzes (see news 7) Board of Directors of Santa Casa of Mogi das Cruzes	Justice had already determined the permission of pregnant women's companion in Santa Casa of Mogi das Cruzes through injunction
9 06/19/2020 Mogi das Cruzes – São Paulo "Mothers report difficulties with restriction to companion during hospitalization for childbirth at Santa Casa of Mogi das Cruzes"	Maintenance of the right: Santa Casa of Mogi das Cruzes does not comply with the injunction, to the detriment of users	Conflict of narratives: the users continue to report restriction of companions and the direction of the institution continues to claim to respect the law and the court order.	Public Defender's Office (see news 7 and 8)	Other violations of the right of the parturient not mentioned in the article The contacts of the Public Defender's Office are also made available for complaints of restrictions.
10 07/23/2020 Amazonas "Lawmakers create bills for pregnant women and efficient public administration"	Sponsored news (institutional bias): state bill to reinforce the presence of a companion even during the pandemic in public hospitals or agreed with the state Executive	Ensuring the right of companionship	Companion Law	Legislative intervention to create a new mechanism (law) that guarantees the presence of a companion, even if there is already a federal law
11 07/29/2020 Registro – São Paulo "Hospital of Registro guarantees the right to a companion for pregnant and postpartum women"	Maintaining the right under the institutional bias: "Hospital of Registro-SP guarantees the right" and "established a plan for the resumption of the right" are the highlights of the news	Ensuring the right of companionship Biosafety	Companion Law Public Defender's Office of São Paulo in Registro, in Vale do Ribeira State Department of Health Public defender Specialized Center for the Promotion and Defense of Women's Rights of the Defender's Office	Collective action organized by the Specialized Center for the Promotion and Defense of Women's Rights

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**Chart 1 – Continuation**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/ justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
12 11/03/2020 Pariquera-Açu – São Paulo “Hospital of Pariquera-Açu is the target of civil action for vetoing the presence of companions in childbirths”	Loss of right under institutional bias (of the performance of the Public Defender’s Office)	Biosafety	Law 11,108/2005 (Companion Law)	Need for intervention by the Judiciary (public civil action)
13 11/10/2020 Catanduva – São Paulo “Justice denies compensation to father prevented from seeing his daughter deliver because of the covid-19 pandemic”	Loss of right (companion bias) News reports that the father filed a request for moral damages in court for not being able to accompany his wife in the hospital	Biosafety	Companion Law Court of Justice of São Paulo	Judicial decision against the right to the companion, in favor of keeping the pregnant woman alone “only” at the time of delivery
14 11/19/2020 Palmas – Tocantins “Pregnant women complain that they cannot be accompanied at the time of delivery and protest in front of maternity”	Loss of rights from the perspective of popular mobilization	Biosafety	Technicians of the State Department of Health of Tocantins State Crisis Office World Health Organization and Ministry of Health State Public Prosecutor’s Office Women’s Movement	Protest against the decision not to allow companions at the time of delivery
15 07/27/2021 Palmas – Tocantins “Pregnant women request presence of companions during childbirth in public hospitals in the state”	Loss of right (theme update)	Legal argument: court hearings	Public Prosecutor’s Office	Waiting for court decision

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**Chart 1 – Continuation**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
<p>16 08/27/2021 Palmas – Tocantins “Justice creates measures to guarantee the right to companions for pregnant women in labor”</p>	<p>Loss of right: judicial determination to maintain the law</p>	<p>Legal argument: partial fulfillment of the Public Defender’s request</p>	<p>Public Defender’s Office Court of Tax Enforcement and Health of Palmas</p>	<p>The Department of Health will have 30 days to present a plan for the resumption of companions. Transitional measures for resumption were imposed, such as the testing of companions who, if negative, will have the right to remain respected.</p>
<p>17 09/04/2021 Palmas – Tocantins “Pregnant women are without companions during childbirth because they are unable to pay for covid-19 testing”</p>	<p>Loss of right (from the perspective of users) Institution did not comply with the transitional measures imposed</p>	<p>Budget constraint: hospitals claimed they did not have the funds to guarantee RT-PCR exam</p>	<p>Municipal Health Department Court of Tax Enforcement and Health of Palmas</p>	<p>The Health Department reported demanding the negative results of companions, but would not be offering testing.</p>
<p>18 09/30/2021 Palmas – Tocantins “Secretariat publishes plan for resumption of companions in public maternities in the state”</p>	<p>Maintenance of law (from the perspective of institutional performance: Defender’s Office and Health Department) Publication of a plan for the resumption of companions by the Health Department</p>	<p>Compliance with the court order</p>	<p>Public Defender’s Office Public Prosecutor’s Office Municipal Health Department</p>	<p>Criteria for resumption of the presence of companions are disclosed, negative RT-PCR test is one of the most important</p>
<p>19 01/28/2022 Palmas – Tocantins “Women who have had a baby in recent months report distress at not having companions after childbirth”</p>	<p>Loss of right (from the perspective of users) Plan to resume the presence of companions at childbirth was not enabling their presence</p>	<p>Budget constraint – lack of RT-PCR tests in the Health Department</p>	<p>Prosecution Office Public Defender’s Office Municipal Health Department</p>	<p>Prosecutor’s Office establishes that the state government would have until 01/31/2022 to present a definitive plan for resumption</p>

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**Chart 1 – Continuation**

General Information (date, state, title)	Approach (how the news describes the fact)	Argumentation (positions/ justifications)	Actors involved (laws, advocacy, social movements, lawyers, etc.)	Outcome/ complement/ conclusion
20 04/12/2022 Palmas – Tocantins “After two years, the state releases the return of companions in public hospitals in Tocantins”	Maintenance of rights (from the perspective of users) Update (see news 2, 14, 15, 16, 17, 18 and 19)	Biosafety: prevention of contamination	Municipal Health Department	Two years after the ban and after pressure and social mobilization supported by the Public Defender’s Office and the Public Prosecutor’s Office, the Health Department established a technical opinion with the criteria to guarantee the right of pregnant women, parturients and postpartum women

## Journalistic approach

In Traquina’s conception (2005) a newsable fact fits into criteria of news values, such as selection, considering the notoriety, proximity, relevance, novelty, time, notability, unexpected conflict, controversy, infraction, availability, balance, visuality and competition of the theme; construction, which takes into account the possibility of simplification, expansion, personalization, dramatization and consonance of the reported fact; and the editorial line of the media outlet, which defines how news - which are intended to be neutral, although often do not reach neutrality - will be addressed. Thus, the material selected on the website G1 considered the elements that constitute its news-values to understand the approach and direction.

Regarding the multiple approaches found in the analysis, the following stand out in the editorial principles of the Globo group:<sup>2</sup>

- Section I, item 1.b “The exemption”: in the investigation of the news, “[...] the various angles surrounding the events that it seeks to portray or analyze must be addressed. The opposite must always be accepted, which implies that all those directly involved

in the matter are entitled to their version of the facts”;

- Section III, “The values whose defense is an imperative of journalism”: “will therefore be neither for nor against governments, churches, clubs, economic groups, parties. But they will uncompromisingly defend respect for values without which a society cannot fully develop,” namely “democracy, individual freedoms, free enterprise, human rights, the republic, the advancement of science and the preservation of nature.”

However, as can be seen in Table I, news with sometimes similar contents were approached by the same media under different biases and perspectives, not always neutral.

In news 1, 2 and 3 (Table 1), published between March and April 2020, the fact - curtailment of the right to companion - is addressed as a prevention and biosafety measure. Its titles bring the expressions “suspension”, “veto”, “companion” and “motherhood” as descriptors of the situation that attribute news-values of: relevance, due to the impact on people’s lives; conflict, as a symbolic violence; infringement, for the violation of a right; personalization, giving a character of identification

<sup>2</sup> Available at: <<https://g1.globo.com/principios-editoriais-do-grupo-globo.html#principios-editoriais>>. Accessed on: Dec. 13, 2022

of the reader with the characters - the pregnant women and the dramatization, given the symbolic and emotional dimension of birth. The opposite, however, favors the institutions that justified non-compliance with the law under prevention and give the final word.

It is reported as loss of rights from the perspective of **users** in news 4, 17 and 19, and in news 13, under the **companion** bias. This approach assigns customization newsvalue. In news 12 and 14 the perspective adopted is that of **popular mobilization**, attributing a character of notability, as it is a tangible fact, about what Traquina (2005, p. 82) says that “there has to be anything specific that has an evident form, there has to be any manifest aspect”.

Approaches that humanize the characters are resources that favor identification with the fact and empathy of the interlocutors. Spink and Gimenes (1994, p. 152) point out that in discursive practices of meaning production, the understanding of a self - an “I” in the narrative - implies “entering the field of rhetoric in search of argumentation and deposition of values: the revealing qualifiers of affective investment”. Spink (2004, p. 36) also states that “discursive practices, therefore, necessarily imply the use of repertoires and identity positions”.

In news 15 and 16, the loss is reported with institutional bias, that is, considering the actors involved in the fight for law (Public Prosecutor’s Office and Public Defender’s Office). This approach is common in journalistic texts because, according to Wolf (2002), official sources confer credibility from the official point of view.

The maintenance of the right to the companion, i.e. lawsuits that resulted in favor of the right, was addressed in news 5, 6, 7, 8, 9, 10 (advertising report), 11, 18 and 20. From this approach, hospitals and maternities are often placed in the foreground, even if suffering the penalty, as for example in news 7, whose title is “Preliminary injunction of collective action of the Public Defender’s Office guarantees companion for pregnant women in Santa Casa of Mogi”. Once again, under the bias of the controversy, the final word of the institution and the actors involved on the outcome stands out,

sometimes to the detriment of the well-being of the whistleblowers.

**The Justice granted a request from the Public Defender’s Office** determining that the **Secretary of State for Health** present a plan to allow the presence of companions for **pregnant women** in labor, through some care. **This is a right guaranteed by law**, but the state had been restricting this access since 2020 because of the coronavirus pandemic. The justification was to prevent the risk of spreading Covid-19.

**In the decision published on Thursday (26), Judge Gil de Araújo Corrêa, of the Court of Tax Executions and Health of Palmas, partially complied with the requests of the defense.**

**The G1 reached out to the Tocantins government for comment on the decision and is awaiting a return.** (News 16, emphasis added)

This institutionalist approach does not reflect the neutrality and exemption that the vehicle proposes and impacts on the democratic formation of public opinion in health. In this sense, Santos et al. (2022, p. 1550) point out that “the media gain full political meaning, whose democratization is a requirement for the construction of a health system based on the public interest”.

## Argumentation

Failure to comply with the Companion Law is not restricted to the moment of the pandemic nor is it recent. In a national survey conducted in 2012, about 25% of the interviewees had no companion, slightly more than half (55.2%) had a companion at partial moments of hospitalization, and less than 20% had a companion during the entire hospitalization (DINIZ et al., 2014).

From the theoretical perspective adopted (Spink, 2004), it is important to note that the reports always brought arguments from authorities, mainly justified in the biosafety discourse.

Words such as “restrict”, “suspend” or “prohibit” were found in most publications, in reference to the withdrawal of the right. In this sense, it is interesting to observe how and what justifications are used for the suppression of the right.

News from São Paulo, Tocantins, Minas Gerais, Santa Catarina, Paraná, Paraíba and Amazonas were found, with a higher incidence in the first two. The news have in common the legal aspect, the intervention and interlocution of the Judiciary in the health context, mainly the hospital. In this context, it is worth mentioning the performance of the Public Defender’s Office and the Public Prosecutor’s Office in favor of women’s rights and that the theme - despite appearing in some reports - is not dealt with in the sphere of private law, but rather collective law.

Biosafety was the argument most used by hospitals and maternity hospitals to justify the veto, used as the main justification, although it is not explained in all the news. Solitary childbirth is justified by the need for sanitary measures.

[...] Isabela Santos Machado, 25, had to have her third child alone in a hospital in Belo Horizonte. The delivery of little Gabriel, on March 26, was at the beginning of the pandemic of the new coronavirus, **and no companion, nor the father of the child, can enter the maternity hospital**, in Belo Horizonte. (News 4, MG, emphasis added)

Considering the right of the pregnant woman and the prevention and biosafety measures, in news 1, 2, 4, 7, 8, 9, 11, 12 and 14 to 20 (in this last interval the news deals with the same place - Tocantins), the prohibition of the companion was total, preventing her presence in pre-delivery, delivery and postpartum.

After a meeting promoted by the São Paulo Public Defender’s Office in Registro, in Vale do Ribeira, the São João Hospital, located in the municipality, with the support of the State Department of Health, established a plan to resume the right of pregnant

women to a companion during labor, delivery and postpartum. The plan was implemented on Monday (27). (News 11, SP)

The entry release of the companion after delivery is described only in news 13.

In the decision she wrote, “the measure also sought to preserve the health of the medical team responsible for the procedure (obstetrician, anesthesiologist, pediatrician, nurses), which is absolutely legitimate.”

The birth took place in March of this year, the beginning of the pandemic in Brazil. The judge also said that, because the disease was early in the country, it further justified the ban imposed at the time, a period of little information about the disease.

She also said there was no full restriction of the right of companion, only to the surgical act itself. The father was able to accompany the pregnant woman pre and postpartum. (News 13, SP)

The presence of the companion at the time of delivery - and his departure after - is described in news 3.

As of Wednesday (22), the entry of companions of mothers in the postpartum period until discharge was suspended. The measure caught Professor Roselaine Pires da Silva by surprise. (News 3, SP)

Although there was a certain delay and difficulty in organizing the management of the pandemic in Brazil, with lasting effects (Sodré, 2020), states and municipalities adopted preventive measures in several spheres.

The Ministry of Health expressed itself, in Technical Note No. 9/2020, for the maintenance of the right (Brazil, 2020). The presence of a companion represents emotional and psychological support, encouragement and *advocacy*<sup>3</sup> in the

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3 power of argument that helps woman and partner to express their desires and needs to others

experience of childbirth, and can improve the safety of women in childbirth, their capacity for autonomy and agency (WHO, 2014). According to Diniz et al. (2014, p. 142), it is especially valuable in cases of serious complications, especially in the aid of emergency care, “considered an indicator of safety, quality of care and respect for women’s rights in care”.

Technical Note No. 9/2020 recommended that the companion be asymptomatic and not belong to risk groups (Brasil, 2020). However, it differentiated the moments of hospitalization into two periods: (1) before and during childbirth, and (2) after childbirth, excluding the postpartum period, whose recommendation does not depend on the SARS-Cov-2 infection status. It provided companionship only in cases of clinical instability of the parturient or in specific conditions of the newborn, as well as for the underage parturient. In other cases, it recommended temporary suspension. Therefore, the note restricted the right to the companion to the postpartum period (puerperium).

A correct interpretation of Technical Note No. 9/2020 took place in São Paulo, where the doctor in charge allowed the presence of a companion after delivery:

According to the infectious disease doctor responsible for the hospital infection control service of the maternity hospital, **the restriction only applies to after the birth of the baby**. Before that, the companion is still allowed to enter, **respecting federal law**. (News 3, SP, emphasis added)

This different understanding of the law and the technical note by the institutions - that they would be respecting the norm if they allowed monitoring in only one period of hospitalization, in this case childbirth - shows disregard of the birth process as a biopsychosocial event and misinterpretation of the law - which informs the permission of a companion “during the entire period of labor, delivery and immediate postpartum” (Brasil, 2005). This case exemplifies the reductionist view of the importance of the presence of someone of the

woman’s choice. The companion is not a spectator of childbirth, as if it were a “product”, but is there to offer support throughout the process, in addition to the first care for the newborn, even favoring the adoption of good practices (Diniz et al., 2014; Monguilhott et al., 2018). This vision appears in the title of one of the articles, when it says only “to attend childbirth” (News 5).

Budget restrictions were also pointed out as the cause of the ban on companions, due to the absence of personal protective equipment (PPE) - which would allow safe entry. They are explained in news 8, 17 and 19 (the last two referring to the state of Tocantins).

Another reason, according to the director, was the difficulty in providing personal protective equipment (PPE) for everyone.

“At the beginning of this crisis we had a problem supplying this material. We couldn’t buy this material. This was something that worried us too much and we had to prioritize the distribution of PPE to employees so that patients were protected.”

The director of Santa Casa points out that before the Covid-19 pandemic, the hospital paid an average of R\$6.50 for a mask box, and currently pays R\$170. (News 8, SP)

## Actors involved, judicialization and outcome

Judicialization was a recurring feature in the news. In Campina Grande (News 6), for example, non-compliance was not reported, but rather the request of the Public Prosecutor’s Office to safeguard women’s rights. Among the recommendations, the report highlights:

**Maternities should guarantee the right to the companion**, but restricting it to only one person, who is without symptoms and who does not belong to the risk groups. This screening should be done

strictly, prohibiting the companion from moving around the hospital, performing exchanges or rotations. (News 6, PB, emphasis added)

In the context of health, the activation of the Judiciary happens when there is no guarantee of the rights established by law. The main actors involved in the search for guarantees of rights were the Public Prosecutor's Office, the Public Defenders' Offices and people who resorted to lawyers to enforce the law:

To guarantee the rights of pregnant women, the **Public Defender's Office filed a lawsuit** questioning the decision of the State Department of Health. In Palmas alone, more than 40 women sought help from public defenders. (News 2, TO, emphasis added)

**The Public Defender's Office of Minas Gerais** reported that it sent to the Municipal Health Department of Belo Horizonte a recommendation that pregnant women and parturients should not be deprived of the company of a companion during hospitalization in maternities. (News 4, MG, emphasis added)

According to the Court of Justice of Paraná (TJ-PR), **this was the first open case approved in Brazil** authorizing a pregnant woman to have a companion at the time of delivery in the midst of Covid-19 quarantine. (News 5, PR, emphasis added)

Only one news story addressed the unfavorable decision to seek compensation, because the father could not accompany the birth - the news does not comment on the outcome. The others show the important role of public legal bodies in guaranteeing this right, including in trying to build dialogues for a consensual solution, before lawsuits:

As explained by the São Paulo Public Defender's Office, since the beginning of the pandemic, Nudem and the Defender's Units have been mobilized to implement the right to a companion during childbirth, through dialogues with the State

Department of Health, sending recommendations to hospitals and, when necessary, lawsuits. (News 11, SP)

Regarding women's health and obstetrics, mediation by legal institutions is an increasingly reported path. Cases such as Adelir Lemos de Góes, who was removed from her home by an injunction signed by a judge and subjected to cesarean section surgery against her will (Simas; Mendonça, 2017), show how the system and the power game between medical and legal discourses can have discrepant readings of women's rights.

An article published in Manaus (News 10) about a bill to ensure pregnant women the right to a companion draws attention. The author of the law commented that the objective is to guarantee this right even in situations of calamity.

... there will be no impediments to this right, even in times of public calamity; in addition to establishing penalties such as warning and fine for hospital units that establish restrictions on the presence of companions of parturients. (News 10, AM, emphasis added)

In this case, the restriction on the companion motivated a bill that sought to legislate on a right already guaranteed for more than 15 years.

In Brazil, a country with high rates of violations at the time of childbirth, with interventionist assistance (Leal et al., 2014), the figure of the companion is a protective factor for women (WHO, 2014). In this sense, the loss of this right in the pandemic results in obstetric violence. According to the World Health Organization (WHO), "pregnancy is not interrupted in a pandemic, nor are fundamental human rights. The experience of a woman's childbirth is as important as her clinical care" (WHO, 2020).

Previous research has already shown how this is a disrespected right, including pointing out the inequality in power relations between health professionals and the traditional structures of institutions as "issues" that directly

influence the effectiveness or not of this right (Rodrigues et al., 2017).

Not allowing the presence of the companion at the time of delivery and birth is a practice that is culturally expressed in relationships with health professionals, according to which the companion is a “complication” at that time. Thus, in some situations, the professional ends up using his authority and institutional power to prevent women from asserting this legal right, which can characterize a violation of sexual, reproductive, and human rights. (Rodrigues et al., 2017, p. 8)

## Tocantins Case

The news about Tocantins (2, 14, 15, 16, 17, 18, 19 and 20) report a problematic scenario, since the ban on the companion came from the State Health Secretariat (SES-TO) and lasted longer: from April 2020 to April 2022. In April 2020 (News 2) it is reported that the Public Defender’s Office filed a lawsuit questioning the decision, which violated the recommendations of the Ministry of Health and WHO.

The mobilizations for the resumption of the right are described from News 14, of November 19, 2020. The SES-TO restriction covered 18 state hospitals. On July 27, 2021, the demand of women for the return of the right was reported again (News 15). At that time, court hearings were being held with SES-TO itself, the Public Defender’s Office and the Public Prosecutor’s Office.

As of News 16, of August 27, 2021, it is reported that the Court of Tax Enforcement and Health of Palmas partially met the requests of the Defender’s Office and established a deadline for the State to present a recovery plan with structural planning. Transitional measures were determined to ensure the presence of companions during labor, including the presentation of a negative RT-PCR test for covid-19. But it is reported difficulty in accessing the RT-PCR exam, with little availability in the state public network (News 17).

News 18, 19 and 20, published between September 2021 and April 2022, describe SES-TO’s slowness and inefficiency in disclosing and implementing the resumption plan, especially the RT-PCR testing of companions. These difficulties became new barriers, until the normalization of the right, in 2022.

In all news, SES-TO’s justification for prohibiting or restricting companion access in pre-delivery, childbirth and post-delivery was justified by biosecurity issues, allegedly supported in its contingency plan, superimposed on the law.

## Final considerations

The newsworthiness of the reproductive rights theme followed the logic of the controversy by adopting the biases of loss or maintenance of the right, which conferred dramatic value and personalization of the news. When adopted, institutional bias reinforced the credibility of official sources, sometimes to the detriment of complaints. There was little room for debate about the perspective of those who suffer the most from the consequences of these arbitrariness: women.

There was a discrepancy in relation to the interpretation of the law in several municipalities and states, despite the clear position of the WHO informing the guarantee of women’s rights and emphasizing that the pandemic is not an exception. In the Brazilian scenario, the Ministry of Health, as a higher authority, and several legal bodies issued opinions and protocols reaffirming the right to the presence of a companion. In some places, in addition to non-compliance with the law, even the measures that reiterated the maintenance of the right were not complied with.

The restriction in Tocantins lasted until May 2022 and the decision came from SES-TO, allegedly justified by recommendations from the WHO and Ministry of Health. But it is worth noting that since April 2020 the two entities have published several protocols that recommended the maintenance of a companion. Thus, in this case, the generalist argument reflected the inflexibility of the institution and caused harm to pregnant

women. The health system, represented by SES, failed to update itself on the protocols and practices proposed in response to the pandemic, and also to dialogue with users of the health service.

Stoffel et al. (2021), when analyzing Brazilian protocols, highlight the importance of recognizing demands and particularities of each situation. The issue of race/color, class, and location was decisive for the number of maternal deaths in the covid-19 pandemic (Alves et al., 2022), making clear the vulnerability of Brazilian women in obstetric care.

The chronology of the news draws a parallel between the demands of pregnant women and the intransigence of the State, inefficient in supporting pregnant and parturient women at a time of so much fragility, such as childbirth, in such a frightening pandemic context.

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### Authors' contributions

Silva participated in the research of theoretical-methodological reference, news research and selection, data analysis, writing and proofreading. Gervasio conducted theoretical-methodological research, data analysis, writing, and text revision. Cuenca contributed to the coordination of research, theoretical-methodological guidance, content, and text revision.

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