

Original article

Legal research in health area – a methodological proposal for the primary data collection

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Abstract

The empirical research on the Judicial Power procedure in relation to the health politics in Brazil does not show a standard in the data collection procedures. Based on this observation a Standard Operating Procedure (Procedimento Operacional Padrão -POP) was elaborated for obtaining primary legal data related to health topics. The suggested POP underwent a pilot test realized in the Rio de Janeiro state in January and February of 2009, and its performance was evaluated through SWOT analysis (Strengths, Weaknesses, Opportunities, threats). The evaluation of the results of the pilot test made it evident that there should be taken care in the calculation of the sample sizes due to the frequent difficulties in the effective access to the data sources in legal facilities. The standardization of operational procedures consolidates the methodological basis of interdisciplinary research as it is the area of relationship between the Law and Public Health and it guarantees the comparability of collected results in different demographic, social and territorial contexts. This possibility founds an eventual construction of databases, systems of indicators and historical series for subsidizing a better knowledge of scenarios and of the dynamics that are established between health management and the Judiciary in the different administrative divisions of the Union.

Keywords

law; health; methodology; primary data; standard operational procedure

Introduction

In the 1980s the re-democratization led to the start of the constitutional process which culminated in the promulgation of the Federal Constitution of 1988. The new Magna Carta considerably extended the legal basement of the citizenship in Brazil by ratifying important social aspects, such as the right to health enshrined in the Article 196. The fight for deploying a broad and democratic sanitary reform in the country was shaped by the achievement of the fundamental right to health and by the constitutional recognition of the universal and comprehensive character of the actions and services regulated later in the Organic Law 8080/90. The Article 197 of the Federal Constitution expresses that health actions and services are of public importance and the Public Power is to provide its regulation, supervision and control under the law and its execution needs to be done directly or through third parties. Such public health actions and

services integrate according to the Article 198 a regionalized and hierarchical network and compose a unique system that aims at ensuring the right to health in Brazil, based on three guidelines: decentralization; comprehensive care; and the citizens' participation. Brazil is presented in Magna Carta as an indissoluble union of States, Municipalities and the Federal District in the form of federative republic. The country recognizes the Public Power divided in three powers, which are independent and harmonious between them. They are the Legislative, the Executive and the Judiciary. In the last two decades the Brazilian academic field has addressed by different angles the instrumentation and implementation of the right to health almost exclusively in the Executive Power perspective. However, the public health policy practiced by the Brazilian Judiciary is an object hidden from the academic knowledge, at least in its full dimension. Paradoxically, at the same period of time, the Judiciary consolidated its decision

making role in what concerns health management, with strong budgetary implications. As predicted, it did not happen without discrepancies in terms of competency and capacity of the Judiciary to act in these questions. However, even when the positive and negative impacts of the legal decisions related to public policy management in Brazil are evident, it is difficult to strictly evaluate these impacts due to the scarcity of empirical evidence hereupon. As a result, an academic research profile is traced and it addresses the legal interface with the public health policies based on the primary data collection aiming at a critical analysis of the used methodological resources. Then a POP (Standard Operational Procedure) is proposed for collection of primary judicial data whose construction obeys the complexity of the Judicial Power in Brazil.

The interface between the Judiciary and the public health policies in the Brazilian academic production

Over the past decades the public health policies in Brazil acquired institutionalism, complexity and scope, yet they still did not manage to provide the Brazilian population with an effective universal, equal and full access, the right stated in Magna Carta. In this context the citizens see the Judiciary as an institutional ally that allows achievement of the constitutional principles. "(...) *The Judiciary is increasingly receptive to draw upon itself the responsibility, though a subsidiary one, of achieving the constitutional desire*" (GANDINI *et al.*, 2008). The Judiciary's actions in the Supplementary Health Sector, for example, in granting injunctive relief as an instrumental of guarantying health assistance, have been functioning as a mechanism of affirmation and social vocalization established as an important area of claiming the citizens' rights included in the private health insurance (ALVES *et al.*, 2009; SOUZA *et al.*, 2007).

However, the provocation and the actions of the Judiciary in support to effective actions and services, what is called the legalization of health, is generating impacts – especially budgetary ones – in the management of public health politics in Brazil. This situation is particularly frequent in the lawsuits filed by citizens who seek in the justice the guarantee of access to medical treatments or to the high medical complexity. In 2007 the results of a research developed in the State of Sao Paulo was published, reporting that in 77,4% of cases it was asked to provide specific drugs produced by certain pharmaceutical laboratories; in 93,5% of cases the request was granted on an emergency basis by means of injunction; and that the total of these judicial processes had been triggered individually. The authors made a conclusion

that the Judicial Power by uttering its decisions doesn't know the constant elements of the public drug policy edited according to the law in order to give concreteness to the social right to pharmaceutical assistance (MARQUES *et al.*, 2007). Nevertheless, Nagib Slaibi Filho (2009) observed that in applications for health protection that come into judges' hands there is always a registration number in the Regional Medicine Council (CRM), showing that one cannot rule out the power of a health professional to say what is needed for assistance in the same manner as one cannot rule out the power of a lawyer and judge to arrange according to a specific situation. It also acknowledges the difficulties that the judges face in order to issue sentences when there is no sufficient technical expertise. The question of technical expertise as judicial decisions determinant results in cases of bullying and sexual harassment (GRANJEIRO *et al.*, 2008); and in the field of psychiatry, regarding the interdicting psychiatric patients or elderly people with (supposed) deteriorated mental functions (TEIXEIRA *et al.*, 2005; BARRETO *et al.*, 2004; DIAZ, 2001). Gandini *et al.* (2008) observed that when the Judiciary orders the State to provide a determined health action or service it needs to do it with caution in order to not offend the Constitution and the Law, as well as to not cripple the operation of the state machine. However, authors point out that there were judgments made which undertake both the National Drug Policy (VIEIRA *et al.*, 2007) and the resource management in health area, transforming the managers of the Single Health System (Sistema Único de saúde (SUS)) into defendants (BOMFIM, 2008). For Vieira *et al.* (2007) the mandates that oblige the health managers to provide medicines requested by judiciary are producing public policy distortions and threaten the fairness of access and the rational use of medicines in the SUS. Marques *et al.* (2007) considers that this situation is hindering the collective decision making by the political system, overlapping the individual needs of the processes to the collective needs. Having developed a broad exploratory research, Da Silva *et al.* (2009) showed that 60.62% of the population who had accepted their request for legal medicines in Sao Paulo city do not receive treatment at the UHS, but in private clinics or hospitals. The authors reflect on the mobilization of the Sao Paulo civil society in defense of the users' individual rights to this kind of health services. They make a conclusion that this mobilization ends up supporting the pharmaceutical strategy interested in getting advantages of many legal decisions granting the right to receive treatment based on very expensive medicines from the Brazilian government. In summary it can be said that certain actions of the Brazilian Judicial System in health area contradict

public policies formulated and executed by the Executive Power which are very well known by the academic world. Authors suggest that by delivering this type of guardianship the Judiciary would hurt the public interest by the individual one. However, when introducing the argument against the desired legalization of tension between the individual and the collective interests, one talks about, precisely, one of the main provocations to the Judiciary Power. Isn't it a competence of the Judiciary to protect the subjective rights of any possible denial made, according to the political power, on behalf of the "common good"? What is the prerogative of the health managers to dispense with the judicial intervention in the conflict resolution, thereby differentiating it from the rest of society? Isn't it a competence of the Judiciary to prevent the administrative acts from breaking rules and principles written in the Federal Constitution? The debate around these and other questions is being extended, for what indeed has not been disclosed to the academic world is the content of the public health policy of the Judiciary in Brazil; considering that even the complete absence of guidelines is also a singular form of making public policy.

Critics of the methodological resources in the empirical research in Law and Health area

A research realized in the last two weeks of April 2009 in the Virtual Health Library (Biblioteca Virtual em Saúde (BVS)) showed that the adjective 'judicial' is the key word with the best performance regarding the Judicial Power in this database, resulting in 182 citations that once analyzed, showed productions of theoretic and conceptual production. Effectively, out of the total, only ten citations (Table 1) reported results of research whose methodology included collecting and analysis of some type of primary data of legal nature (*dado primário de natureza jurídica (DPNJ)*) related to the Public Health. Among those ten, the predominance of the research developed in the states of Sao Paulo and Rio de Janeiro was noted; this research was published preferentially in journals linked with the local research institutions. It was noteworthy that four of these 10 citations correspond to research undertaken in the context of post graduation programs (they are: DIAZ, 2001; MARQUES, 2005; PITELLI, 2006; BOMFIM, 2008), a proportion that is certainly high enough regarding the articles published in scientific journals, the journals which, besides productivity qualifiers, tend to be a type of scientific and academic production more often found in literature reviews. Always according to the result of the collection realized in the BVS, only one of the four parts of post graduation research located (the one produced

by Marques in 2005) also yielded an article (published two years later: MARQUES et al., 2007). The Table 1 also explores the profile of the methodological resources used by the authors in order to achieve the objectives traced in their research. Thus it is possible to confirm that basically there are two types of applicant empirical material: (a) speeches and information collected through questionnaires or interviews; and (b) information contained in documents collected in judicial instances or in possession of the defendants in lawsuits. The information collection through interviews and questionnaires with social actors who are relevant for a research, is an extremely valuable procedure in the case studies development. This type of research represents a big contribution of the Social Sciences to the field of Public Health, as it has allowed among other things the research of the most varied processes of subjectification regarding the health area. However the case studies see as limitation the impossibility of establishing qualitative and quantitative comparisons between obtained results in demographic, social and territorial contexts.

In turn, the collection of information contained in pleadings (application, defense, contestations, sentences, injury instruments, among others) allows exploring and characterizing the social actors involved in a certain lawsuit, as well as the reasons that impulse it and the types of services and resources that are being requested. This information – systemized in historical series of indicators – could be useful for accompanying and evaluation of the dynamic interface between the Judiciary and the Public Health. An information system of this type would not only give support to the public health managers, but also would contribute by offering empirical evidence for a more accurate analysis of the impacts of the Judiciary actions in the public policies realized in Brazil. In a broader perspective this information would help in self-evaluation and reflection of the Judiciary on its contribution to the construction of the citizenship and to the consolidation of the democracy, two fundamentals of the Brazilian Constitution of 1988. However, for enabling the construction of an information system of this type, it is needed first to advance in the consolidation of the necessary methodological tools for the data collection and analysis. The evaluation of the methods used in the 10 parts of research presented in the Table 1 shows that the researchers used consolidated techniques for proceeding to the collected material analysis (hermeneutics, exploratory analysis, collective subject speech). However it proves that the procedures used for defining the sample and for the data collecting were built by the researchers in a specific way for every research project, in other words, they

Table 1: Brazilian scientific and academic productions involving DPNJ till 2009

Title	Authors	Publication	Goals	Data source	Analyzed material	Analysis tool
Role of Justice in the health plans and health insurance in Brazil	Alves D.C. <i>et al.</i>	Cad Saude Publica; 25(2): 279-290, feb. 2009.	Analyze resources of judgments that granted or not the injunction requested by the consumer of the health plan, tried in Justice Courts of Rio de Janeiro and Sao Paulo.	Justice Courts of Rio de Janeiro and Sao Paulo	1020 bills of resources aimed at modifying the decisions of the 1st instance which granted or denied the injunction by the consumer against health plan or health insurance operator in the period of January 2003 to August 2005.	Exploratory analysis
Single health agenda: the pursuit of universal access and guarantee of the right to health	Bomfim, R.L.	Rio de Janeiro; s.n.; 2008. These. LILACS ID: 492279	Identify, systemize and analyze the health demands of the SUS coming from the Public Ministry - MP and Justice Court (Tribunal de Justiça - TJ), that come to the SUS managers of the Rio de Janeiro state.	General Attorney of the Municipality - PGM	Lawsuits received by the SUS managers located in the Rio de Janeiro state (SMS, SESDEC NERJ) in 2006/ Interviews with the involved actors.	Exploratory analysis
The forensic psychosocial study as a support for the court decision on sexual abuse situation	Granjeiro, I. <i>et al.</i>	Psicol. teor. pesqui; 24(2): 161-169, Apr.-Jun. 2008	Deepen knowledge in Psychology/ Law interface, involving a domestic violence situation.	Criminal court of a periphery town near a big capital	Interviews with three Law operators (trial judge, justice promoter, and public defender) and two professionals in the Forensic Psychosocial Section (psychologist and social worker)	Depth Hermeneutics
The intervention of the Judicial Power in the supplementary health sector - injunctions as a tool of guarantee of the health assistance in Brazil	Souza, M.H <i>et al.</i>	Promotion. health debate; (37): 44-60, Jan. 2007.	Investigate and contextualize some conflicting relationships in the market of health plans and health insurance from the perspective of natural judicial solutions for these conflicts of interest.	Justice Courts in the states of Rio de Janeiro and Sao Paulo	611 decisions corresponding to decisions on Interlocutory Appeal in 2003 and 2004, concerning the granting of injunctive relief as a provisional guarantee for emerging conflicts of relationships between clients and health plans and insurances	Exploratory analysis
Social right to pharmaceutical assistance guarantee in Sao Paulo state	Marques, S.b. <i>et al.</i>	Rev Public Health; 41(1): 101-107, Feb. 2007	Analyze how the Judiciary Power has been guaranteeing the social right to pharmaceutical assistance and what is the relation of the legal system and political system in guaranteeing this right	Courts of in Sao Paulo state (71,4% of the total)	Six last sentence books edited and available in the Public registries of the Courts. Obtaining copies of the pleadings (application, contestation or State defense and the first instance judge ruling) of a total of 31 processes.	Collective Subject Speech
Distortions caused by the lawsuits to the drug policy in Brazil	Vieira, F.S. <i>et al.</i>	Rev. Public Health vol.41 no.2 São Paulo Apr. 2007	Describe the effects of the lawsuits that require the drugs providing regarding the national drug policy aspects	Municipal Health Secretary of Sao Paulo (SMS-SP) / Legal Council and Division of Medical Supply of SMS-SP	170 processes realized by citizens against the Municipal Health Secretary of Sao Paulo, referred to the medical supply during the year 2005 (100% of the total)	Exploratory analysis
Civil responsibility of the plastic surgeon: conditions in which the application of objective responsibility fundamentals is realized	Pitelli, S.D.	Sao Paulo; s.n.; 2006. These. LILACS ID: 433580	Evaluate the conditions in which the application of objective responsibility fundamentals is realized to the civil illicit of the plastic surgeon	Archives of the Social Medicine and Criminology Institute of Sao Paulo state	71 processes of civil judicial litigation for alleged malpractice in the period of 1989 to 2005	Exploratory analysis
Criminal psychiatric expertise: when the judges agree or disagree	Teixeira, E.H. <i>et al.</i>	J Bras Psiquiatr; 54(4): 306-310, Oct-Dec. 2005	Evaluate the agreement of the result of psychiatric expertise with the judicial sentence	Campinas County - SP and the region	41 judicial sentences of criminal processes that had psychiatric reports realized during the year 2002	Speech analysis
The relation between the legal system and the political system in guaranteeing the social right to pharmaceutical assistance: the Sao Paulo case	Marques, S.B.	Sao Paulo; s.n.; 2005. These. LILACS ID: 430010	Approach the relationship between the legal system and the political system in the guaranteeing the social right to pharmaceutical assistance	Courts of the Judiciary Power in Sao Paulo state	Six last sentence books edited and available in the Public registries of the Courts. Obtaining copies of the pleadings (application, contestation or State defense and the first instance judge ruling) of a total of 31 processes.	Collective Subject Speech
Are demented of all types absolutely incapable?	Diaz, F.S.	Rio de Janeiro; s.n.; 2001. Dissertation. LILACS ID: 308735	Evaluate the civil interdictions of the individuals with psychiatric disorders in Angra dos Reis municipality, RJ	Program of Mental Health of Angra dos Reis municipality, RJ	39 legal processes related to the civil interdictions of the individuals with psychiatric disorders	Historical and ethnographic study

 Source: Virtual Health Library (<http://brasil.bvs.br>). Own elaboration.

did not apply a standard operational procedure. Although it does not necessarily deprive the research from scientific accuracy, it reduces it to a case study, based on the context of singular reality on the data source. This methodological restriction acts complicating (if not making impossible) the comparability of the results of research which, even having the same objective and analysis technique, collected its data through different procedures. Given this difficulty and aiming at contributing to instrumentalize the legal research in health area in Brazil, the POP proposal is presented for collecting the DPNJ regarding Public Health, elaborated based on the Brazilian Judiciary Power structure.

POP for collecting DPNJ related to the health area

The legal universe is a highly complex reality whose empirical approach requires the disaggregation of its constitutive elements until obtaining coherent and homogeneous clippings of this reality. In Brazil there is a Common Justice (State and Federal) and a Special Justice (of Work, Electoral and Military). In the Common Justice at all levels one can find actions that regard the public health policies. However, in the Special Justice only the Work Justice should be considered. Both the Common and Special Work Justice have an Ordinary Instance and an Extraordinary Instance. The Ordinary is divided into: (i) First Instance (courts where the right, federal and work judges issue their decisions) and (ii) Second Instance (Courts where judges analyze resources). Both judges of the regional courts of the second instance and the court ministers of Extraordinary Justice and of the STF,

when triggered, issue a judgment, which is the decision of the collegiate organ. The ministers of the STF judge the causes in which unconstitutionality is alleged and of extreme public and institutional relevance. The Judiciary is triggered through an application, on which – after analyzing the contestation with the tests produced – a decision needs to be issued. Any of the parts can make a resource to a superior court trying to revert an adverse judicial decision. In principle, any legal process part can be used as an empirical information source of interest for the research in public health. In the Table 2 there is important information listed that can be relevant for each type of pleading.

The operational procedure for the DPNJ collecting should start with the identification of the pleading that contains the information of interest to the objectives of the health research. It is worth noting that the first instance of the Judiciary shows the best cost-benefit relation for this type of collecting, as it concentrates in a single space all the information relevant for the health sector, allowing both to evaluate the fundamentals of the legal decisions (first instance sentences and mandates). It also offers the data through which there can be characterized the social actors involved in the processes (application and defense). However, the information should be taken into consideration to the competence of the diverse courts around the topic in question (farm courts, penal courts, work courts, special courts). It is needed to mention that for some questions the secret of justice is relevant (childhood and youth courts), making unfeasible the access to DPNJ of this type of the process. Once the type of pleading is identified,

Table 2: Main information contained in different pleadings

Pleading	Main empirical information contained	Information of interest to the Public Health
Application	Name - civil state - profession - domicile and residence of the author and the defendant.	Characterizing the social actors involved in the legal processes
	The facts - The legal fundamentals - The requests with their specifications The tests and the value of the causes.	
Defense	The reasons of fact and right, with which the defendant contests the request of the author and specifies the tests.	Characterizing the resources and/or the health services requested by the authors of the processes and content of the argument that sustain both the request and the decline by the defendant.
Minutes of the hearing	Tests (testimonials, documentaries and/or expertise).	
Mandate, Sentence, Res Judicata	The report that will contain the names of the parts, the sum of the request and defense, as well as the registration of the main occurrences in the process.	Discursive content that expresses the position of the Judiciary regarding the public health policies
	The fundamentals in which the judge will analyze the questions of fact and right. The device, in which the judge will solve the questions submitted to him by the parts.	
Resource	Fundamentals of the author of the resource (the won part, third injured or Public Ministry).	
Judgement	Representation containing the main points of the discussion that defined the conclusion of the Court.	

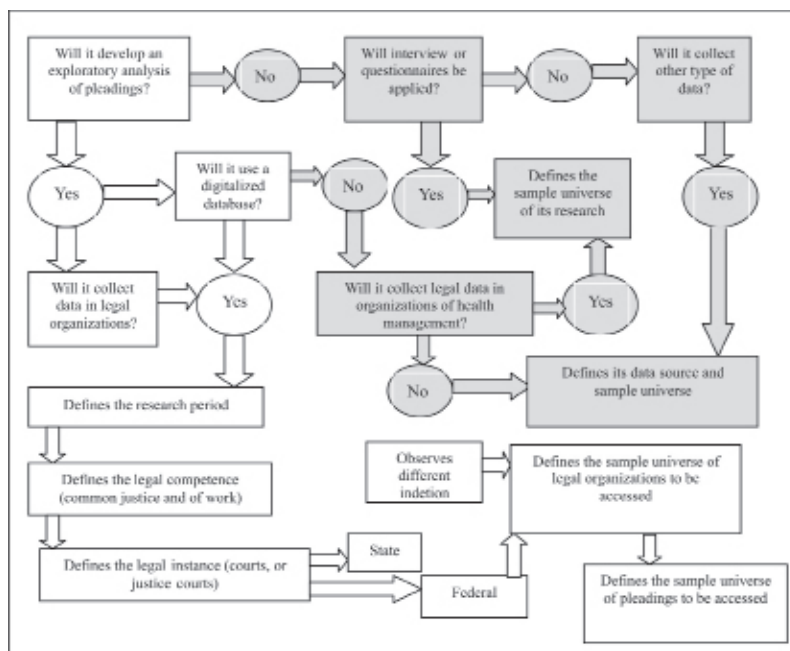
Own source.

as well as the type of court with competence in the topic, there is a need to proceed to a double cutting of the research universe (a) which and how many courts should be accessed; and (b) how many pleadings should be collected and which procedure should be applied to access them. The procedure for the definition of the courts universe to be accessed starts with the differentiation of the territorial cutting of the sample according to the type of justice in question (Work, Federal or State). This is particularly relevant in the case of the state justice, as they organize the competency of the first instance in indentation (a kind of legal index that divides the state territory with forensic and demographical criteria and of tax revenue). For the methodological purposes it is important to understand that the information collected in different indentation of one state of the Union can express a different performance in the variables selected for the empirical study. On the other hand, the researchers can develop their research in all the courts in the studied administrative division or proceed to a sampling that respects the statistic representativeness of the research universe. The same criteria works for the collection of the pleadings, this means that the researchers can alternatively analyze the total of the available material or establish criteria of sampling. However, in the definition of the universe of the pleadings it is needed to classify the sample by periods. Thus, the standardization of the empirical material according to the year when it was produced seems to be

a more adequate criterion. However, the pleadings are very often available in different material supports, mainly, in paper or in a digital format; in this case, there need to be adopted sampling criterion that guarantee the homogeneity of the material collected. The flow diagram in the Figure 1 shows in a schematic way the steps to be followed in the collection of empirical material of legal nature for academic research in the intersection of the Judiciary with the Health area in Brazil.

This type of research can involve different types of data source (courts and justice courts; databases digitalized or not; health management organizations; among others), which determines a first sample universe to be defined. In each of these sources, there are different types of liable material to be collected (speeches; legal statistics; pleadings and other information), resulting in a second sample universe. In the diagram the arrows and the boxes of white color conduct to the collection of pleadings archived in organizations of the Judiciary Power or in digitalized bases of these organizations. The eventual building of a legal information system regarding Health requires precisely the standardization of these procedures. In turn, the arrows and boxes of gray color conduct to the collection of a diverse empirical material in sources different from the stated above; a type of material commonly used in case studies and in more focused research products (local management, university research, elaboration of theses and dissertations of post graduation, among others).

Figure 1: Flow diagram for the DPNJ collection



Own source.

SWOT analysis of the POP pilot test

Aiming at developing a POP pilot test a protocol of research was designed and executed in January and February 2009 in Rio de Janeiro State by an interdisciplinary team of seven collaborative researchers. The objective of the test was to evaluate the access of the researchers to the information contained in sentences given in first instance courts of Work Justice and Common Justice (State and Federal) in Rio de Janeiro State. The first sample universe was defined – the one of the Judiciary organizations to be accessed – it was supposed to be formed by twelve active courts on the state territory chosen within the total available. The selection through simple random sample technique was realized without replacement (a raffle in which each element of the population had equal probability to be chosen for characterizing the sample). The result of this procedure of sampling was: one Federal Justice Court; three Work Justice Courts and eight state Justice Courts (4 Public Farm Courts; 1 Criminal Court and 3 Civil Courts). Out of the eight state courts there were seven of first indentation counties (4 Capital ones and 3 Fluminense lowland ones) and one of Second indentation (Sao Paulo da Barra County). It is worth noting that the purpose of the pilot test was to evaluate the procedure of primary data collection in the Judiciary fields, however, without making critical the construction of the sample maintaining the proportional representativeness of the different legal specificities. Although this criterion had been desirable, the pilot test was adjusted to the restrictions that a research without financing is subject to. In order to define the second sample universe, there was decided to select all the first instance sentences in the period 2006-2008 that had any relation to health area. The researchers' team visited the selected courts with the intention to evaluate the access to the sentences showed in SWOT test (Strengths; Weaknesses; Opportunities; Threats). This test – used by PNUMA (United Nations Environment Program) and by OPAS (Pan-American Health Organization) in integrated and interdisciplinary evaluations of environment and health in Latin America and the Caribbean (PNUMA, 2009). It consists of evaluating the internal and external factors that facilitate or complicate a determined process. Strengths and Weaknesses are internal factors of the process, in this case, they present respectfully the positive and negative intrinsic properties of the POP and of the team that executes it. While the opportunities and threats are the respective external positive and negative aspects, in this case, determined by the conditions of the accessed Judicial organizations. The Figure 2 synthetically presents the results of the evaluation run by the team of researchers who collaborated on the pilot test. Although the

researchers have manifested the sufficient comprehension of how to execute the procedures for the sentences collection in legal entities, in practice the researchers who are not lawyers faced difficulties both in lexicon and in bureaucratic logics of the accessed organizations. That is why there is a recommendation to guarantee the strengthening of the capacity of the interdisciplinary teams involved in empiric research in the interface of the Judiciary with the Health area.

Another question pointed out by the researchers is about the difficulties in the access to the sentence books in the registries of some courts selected for the research. The main reasons for these difficulties were basically bureaucratic positions (requesting authorization and/or postponed scheduling) and the lack of availability of workers of the Judiciary who would give attention to the researchers. The fact shows poorly organized and/or overloaded working processes as well as the lack of a culture for dealing with academic research. This difficulty was partially compensated in the courts where the lawyers of the team met people who they knew. It is worth saying either that the growing number of courts are digitalizing their sentence books which considerably facilitates the access to this material. For one or another reason, out of the twelve legal organizations selected, it was not possible to develop the research in the stipulated times in four of them. The choice of this reduced number for the sample universe of the pilot test was determined strictly by budget restrictions and insufficiently representative of the universe of first instance courts in Rio de Janeiro State. Nevertheless, the execution of the pilot test was not invalid; on the contrary, it enabled an important learning: in the case that the empirical research requires a sample, it is advisable to consider a good margin of a mistake in calculating the sample size of legal organizations to be accessed.

Figure 2: Results of the SWOT Analysis for the POP pilot test (Jan/Feb. 2009)

	Internal Factors	External Factors
Positive Aspects	Highly motivated Interdisciplinary team Good knowledge of the procedure to be realized F	Good receptivity in some courts, especially the ones that have people known to the researchers O
Negative Aspects	Difficulty of the researchers who are not lawyers to execute research in books of sentences F	Poor receptivity in some courts Bureaucratic positions and poorly organized working processes complicate the research A

Own source.

Final Considerations

A conclusion that can be made is that there is still much critical analysis to be done regarding the (positive and negative) impact of the decisions of the Judiciary in the public health policies. For this it is needed to consolidate methodological tools that guarantee a bigger solidity and academic accuracy to the research. The standardization of the primary data collection is a requisite of the objectivity and of the scientific accuracy of an empirical research. No matter how well a data analysis is developed, the quality and comparability of the results will depend on the quality of the procedure of this data collection, including its eventual sampling. The Brazilian Judiciary system is intrinsically complex and, although it has advanced a lot in publicity material of its processes, the access to primary data of a legal nature is still difficult. Still the availability of secondary legal data is practically inexistent, at least regarding health. Because of all this the academic fields of the Law and of the Public Health need to develop integrated methodological tools that would give support to the eventual building of an information system that would allow to project scenarios, accompany trends and, mainly, to evaluate the impacts of the interaction between the Judiciary and the public health policies in Brazil. Having databases, indicators and historical series consolidated would allow discussing, guiding and reflecting inter-sector actions supported in produced evidences through methodological procedures sensible to the demographic, social and territorial differences. In synthesis, the development of standard methodological tools is revealed as a question of a big relevance for the strengthening of the human capacities involved in the interdisciplinary field of Law and Health, or better, involved in the building of democracy and citizenship in Brazil.

Notes

1. Judicial Primary Data refers to any kind of information collected directly from Judicial power's ambit. They may include: any data that allow identifying the agent (gender, age, profession etc; the defendant (health insurance plan, health policies managers, employer etc); the cause (the grievance; some kind of medicine or therapy, or some health service that may be requested); the (public or private) attorney; the case arguing, narratives and justifiers of the involved agents. The empirical source of Judicial Primary Data may be the speech of Judicial power's members (from interviews, defences, sentences, contest, grievance instruments, among others).

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