

A dialogue with Janus: thoughts on the regulation of tobacco products in Brazil

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Tobacco control in Brazil is one of the most successful global cases of a public health policy, considering the reduction in the number of smokers and related tobacco diseases achieved in the last decades (GBD 2015 DALYS AND HALE COLLABORATORS, 2016).

However, despite the success of these policies, old and new regulatory obstacles coexist in an interdependent way, such as, for example, appealing advertisements (even though prohibited) and the use of tobacco in public places coexisting with new challenges such as the use of social networks to advertise and sell these products and new electronic smoking devices.

For these reasons, tobacco control reminds us of the god Janus from Roman mythology: an entity that had two faces, a young one facing forward (the future) and an elder one facing backward (the past). This entity was considered the god of beginnings and endings, of transitions and changes, also connected to conflicts and peace, as well as the lord of the gates through which soldiers used to pass.

Janus also represented progress from the past to the future, the change from one vision to another, and maturing from childhood to adulthood (AUGUSTINE,

2012; FAIRBANKS, 1907; MORFORD; LENARDON; SHAM, 2013; SCULLARD, 1981).

Using the metaphor of the Roman god helps us understand the challenges of regulating these products, and helps us find ways in which it can be enhanced, considering the scientific and technological evolution of tobacco products, the diverse realities of Brazil, and the strategies of the Tobacco Industry (TI), where the past leads to the future and the preterite guides the present, in the same way that the faces of Janus dialogue and call us to prudence and maturity, in an environment where economic interests compete with public health interests, generating a permanent conflict among the actors involved.

The regulation of tobacco products by the Health Surveillance (HS) is an example of this. HS is certainly one of the oldest fields of public health and its history is intertwined with the history of human civilization. The Egyptian, Chinese, Hindu, Greek and Roman civilizations bring records of HS actions, especially in the area of food control (RADOMÍR LÁSZTITY; PETRO-TURZA, 2009). Some authors go even further and indicate that the Bible, especially in the books of Leviticus and Deuteronomy, could be considered as a sanitary code and would therefore be one of the oldest existing sanitary regulations (food regulation) (WENDY ANN WILKENFELD, 1998).

On the other hand, the regulation of tobacco products only started to be part of HS' scope of activities in Brazil in 1999, with the establishment of the Brazilian Health Regulatory Agency (ANVISA, acronym in portuguese), through the Law 9782/99. This fact made Brazil the 1st country in the world to mandate a Regulatory Agency in the health area (usually in other countries this control was done directly by the Health Ministries) to regulate tobacco products. The USA only included tobacco in the scope of regulation of their health regulatory agency in 2009. (UNITED STATES OF AMERICA, 2009).

The transitions and conflicts that Janus rules with his two faces can be illustrated by the case of the ban on the use of tobacco products indoors. This is because although it was only in 2011 (BRASIL, 2011) that more restrictive standards for use in public spaces were established, but this is a policy that has been adopted at least since 1996 (BRASIL, 1996) and since then has been gradually improved, either through legal changes or court decisions, despite attempts to reverse these policies. The case of the use of tobacco products in aircraft is perhaps the most

emblematic after the Law 9294/96, because the former Civil Aviation Department in 1997 issued an Ordinance allowing the use of these products after the first hour of flight. The courts, in 1998, granted an injunction overturning the ordinance, and since then, smoking has been prohibited on airplanes in Brazil.

However, despite being well established and understood by the population, the increase in shisha consumption, especially among young people (BERTONI et al., 2019), has been a threat to policies banning smoking in collective environments, as these products are usually used in bars, restaurants, and other collective places despite the legal prohibition. Moreover, by presenting pleasant aromas and an exotic aura, they reduce the negative perception and nuisance caused, and facilitate the initiation of children and adolescents to smoking, although their damage to health and their ability to cause dependence are significant (MINISTÉRIO DA SAÚDE; INSTITUTO NACIONAL DE CÂNCER JOSÉ ALENCAR GOMES DA SILVA, 2019).

In Brazil, prevalence rates for conventional cigarettes have been estimated at 15.35%, while for shisha and electronic cigarettes the rates are 1.65 % and 0.43% respectively (BERTONI et al, 2019). Although the rates for the latter two are significantly lower than for conventional cigarettes, both have the potential to grow in their consumption, especially among younger people (MARTINS et al., 2019; SILVA et al., 2019a) and thus reverse tobacco control policies if effective measures are no longer taken.

Although shisha-type tobacco products are old products, the incorporation of flavor additives is recent, and their popularization in Brazil occurred in the last decade (MINISTÉRIO DA SAÚDE; INSTITUTO NACIONAL DE CÂNCER JOSÉ ALENCAR GOMES DA SILVA, 2019; REVELES; SEGRI; BOTELHO, 2013).

Regarding the future, the young face of Janus observes the new technologies coming to tobacco products, in which Electronic Smoking Devices present a myriad of forms and possibilities, ranging from the ability to answer phone calls to the use of forms of nicotine with greater addictive capacity, while the elderly face of Janus observes the return of tobacco product advertisements, the normalization and glamorization of smoking that these new devices bring back.

Therefore, we must invoke the two-faced god to assist us in the regulatory improvement of an area where past, present and future coexist and experience has shown us that tobacco control is not a policy of new knowledge and practices replacing the old ones, but of their coexistence. The same would apply to TI's strategies.

Thus, these products should be regulated in a unique way, without exceptions, without ideas of the new "destroying" the old, without categorizations or preferences, and above all with caution, especially on issues such as free environments, use of flavor additives, use of these products by minors, and advertising.

In this process, one cannot ignore the fact that this policy is a permanent space for conflicts where IT is constantly trying to subvert it in the most various ways, as, for example, by using additives in tobacco products. Although Brazil was one of the first countries in the world to ban its use, to this day this ban has not been effectively applied due to a series of maneuvers by TI. (SILVA et al., 2019b).

Hence, the coexistence of past, present, and future requires prudence and determination to face the conflicts inherent to the theme, not allowing setbacks in tobacco control policies, following the Roman two-faced god.

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References

AUGUSTINE, S. *The City of God*. [s.l.] New City Press, 2012.

BERTONI, N. et al. Electronic cigarettes and narghile users in Brazil: Do they differ from cigarettes smokers? *Addictive Behaviors*, v. 98, p. 106007, 29 maio 2019.

BRASIL. Lei nº 9.294, de 15 de julho de 1996.

BRASIL. Lei nº12.546, de 14 dezembro de 2011.

FAIRBANKS, A. *The Mythology of Greece and Rome*. Reprint edition ed. New York: D. Appleton and Company; Reprint edition (1907), 1907.

GBD 2015 DALYS AND HALE COLLABORATORS. Global, regional, and national disability-adjusted life-years (DALYs) for 315 diseases and injuries and healthy life expectancy (HALE), 1990–2015: a systematic analysis for the Global Burden of Disease Study 2015. *Lancet* (London, England), v. 388, n. 10053, p. 1603–1658, 08 2016.

MARTINS, S. R. et al. Narguilé, uma forma de consumo de tabaco em ascensão. *Jornal Brasileiro de Pneumologia*, v. 45, n. 5, 2019.

MINISTÉRIO DA SAÚDE; INSTITUTO NACIONAL DE CÂNCER JOSÉ ALENCAR GOMES DA SILVA. *Narguilé: o que sabemos?* Rio de Janeiro: Instituto Nacional de Câncer José Alencar Gomes da Silva, 2019.

MORFORD, M.; LENARDON, R. J.; SHAM, M. *Classical Mythology*. 10 edition ed. Oxford ; New York: Oxford University Press, 2013.

RADOMÍR LÁSZTITY; PETRO-TURZA, M. History of food quality standards. In: RADOMÍR LÁSZTITY; FOLDESI, T. (Eds.). . *Food quality and standards - Volume I*. Encyclopedia of life support systems ; Food and agricultural sciences, engineering, and technology resources. Oxford, U.K: Eolss Publishers, 2009. p. 62–77.

REVELES, C. C.; SEGRI, N. J.; BOTELHO, C. Fatores associados à experimentação do narguilé entre adolescentes. *Jornal de Pediatria*, v. 89, n. 6, p. 583–587, dez. 2013.

SCULLARD, H. H. *Festivals and ceremonies of the Roman Republic*. [s.l.] Cornell University Press, 1981.

SILVA, A. L. O. DA et al. Por que os cigarros eletrônicos são uma ameaça à saúde pública? *Cadernos de Saúde Pública*, v. 35, n. 6, 2019a.

SILVA, A. L. O. DA et al. *The taste of smoke: tobacco industry strategies to prevent the prohibition of additives in tobacco products in Brazil*. Tobacco Control, p. tobaccocontrol-2018-054892, 30 maio 2019b.

UNITED STATES OF AMERICA. *Family smoking prevention and tobacco control and federal retirement reform*. 22 jun. 2009, p. 1775.

WENDY ANN WILKENFELD. *Food Regulation in Biblical Law*. Monografia—Harvard: Harvard Law School, 27 abr. 1998.

