

Against the tide: current perspectives in Brazilian drug policy

Na contramão: perspectivas atuais da política brasileira de drogas

En dirección contraria: perspectivas actuales de la política brasileña de drogas

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The year 2012 brought some unpleasant surprises for us Brazilians in drug policy and related issues. Some local governments, the most notorious example of which is the city of Rio de Janeiro, have been enforcing a policy of compulsory detention and rehabilitation of drug users, including adults and even children and adolescents. A harsher drug policy bill is now under review in the National Congress, including not only compulsory hospitalization but also a major turn in drug policy concerning sentencing with incarceration, which the existing national policy has at least attempted to avoid, although with limited success ¹.

Importantly, unlike countries such as the United States and others where States and Provinces themselves legislate (although partially) on the issue, Brazil's official drug policy is exclusively Federal. The measures enforced by the city of Rio de Janeiro thus result not from changes in the Federal legislation, but from so-called Terms of Agreement (TAC) signed between the Municipal Government and the Office of the Public Prosecutor. If the Brazilian National Congress passes the bill currently under review, measures such as compulsory detention will become the rule rather than the exception.

These measures and proposals to alter prevailing legislation entail numerous issues, of

which I will highlight three, the first only briefly and the other two in greater detail.

The year 2012 witnessed numerous debates and legal challenges by civil society and professional associations (such as the Federal Board of Psychology) concerning the legality of the Terms of Agreement now in force in Rio de Janeiro, based on a contradiction between the enforced measures and existing legislation at various levels, such as the *Statute for Children and Adolescents* (ECA) in relation to compulsory hospitalization of children adolescents, and the *Federal Constitution* in relation to fundamental rights such as the right to come and go.

I now focus on two other points, the first of which refers to issues that I have followed closely due to my work with the Reference Group to the UN on HIV and Injecting Drug Use ². Drug policy is one of the areas in which national policy and legislation should be formulated and enforced in keeping with the supranational framework laid out by the United Nations conventions and treaties, of which Brazil is a signatory, as are other UN member states. I have discussed the issue in a recent publication ³, and here I highlight one of the relevant developments for the present commentary: any resolution that alters national drug policy necessarily means a break in the commitment between national initiatives and the

UN resolutions. Therefore, although this issue is rarely discussed, even profound drug policy reformulations (such as that recently carried out in Portugal ⁴) take place through changes that are consistent with the international conventions and comply with them, for example, vis-à-vis international drug traffic. In this sense, it is extremely worrisome that the recent Brazilian initiatives towards compulsory detention go against the tide of guidelines laid out within the sphere of UN agencies, as in the explicit condemnation of compulsory detention of drug users, issued by the UN Office on Drugs and Crime (UNODC). As discussed in a recent UNODC publication that was seconded by the other UN agencies (which, in the sphere of the UN and its agencies, defines a Joint Statement), compulsory detention violates human rights and is counterproductive from both the clinical and public health point of view ⁵.

A second point that relates fundamentally to Brazilian health initiatives is the issue of territory as the space for local health measures, as with the country's successful Family Health Program initiative (albeit still only partially implemented at the national level) and the integrated action between community health workers and health professionals from various fields ⁶.

In my view, confusion currently reigns between initiatives to return territories under the command of criminal factions to their residents, thereby integrating them into the urban fabric, and actions to disperse and intimidate drug users. The former have proven successful from the perspective of both public security and the communities themselves, even though evaluations indicate that the impact of such initiatives is still limited if compared to the huge effort undertaken thus far by government ⁷. Importantly, such evaluations are neither simple nor cheap, since interventions of such magnitude alter a wide range of parameters in each community, including reshaping of the local and surrounding real estate markets, new patterns for operating local businesses and the transportation system, and new forms of interaction with government, among others. The most successful interventions combine so-called "pacification" with social actions such as expanded access to basic services including regular garbage collection and issuing personal identification papers.

The initiatives that provide benefits from community policing and pacification of communities feature locally-based health actions. These can include not only activities classically defined within the framework of the Family Health Program, such as home visits and hierarchically organized healthcare through health posts and

family health clinics, but also innovative measures targeting mobile and difficult-to-access populations, for example through mobile and/or on-the-street clinics.

The vast majority of the same mobile populations do not live in these communities, and when they come under threat (real or assumed), they scatter and eventually regroup elsewhere, thus jeopardizing months of work by health teams that have struggled to gain their trust, establish bonds (although tenuous), and refer them to health units (if only for emergency care, which is short of the comprehensive care they require but sometimes reject, even when it is offered to them). One can claim that little progress is achieved, since many drug users are incapable of regularly attending specialized services. No doubt much remains to be done, but in fact little can be done when such a population is scattered and terrified.

We have not been capable of learning from the mistakes made in dealing with the AIDS epidemic. We are haunted again by compulsory testing and institutionalization, mandatory registration of patients by systems that vacillate between healthcare and penal sanctions, and the stigmatization experienced by drug users in Eastern Europe, forcing them to avoid interaction with health services at any cost and fueling one of most explosive epidemics among drug users anywhere in the world ⁸.

Although in a different context from that prevailing in Eastern Europe in its arduous transition since the fall of Communism, and decades after the first formulation of policies subsequently referred to as "harm maximization" ⁹, we have proven incapable of overcoming the dyad that served as the title to one of the most famous novels in world literature. When it comes to drug users, we are always dealing with "Crime and Punishment".

Statement

The points of view expressed here reflect only the author's personal opinions, and not those of the institution where he works or the various research funding agencies.

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1. Boiteux L; Grupo de Pesquisa em Política de Drogas e Direitos Humanos FND/UFRJ; Grupo de Pesquisa da Universidade de Brasília. Sumário executivo. Relatório de pesquisa. Tráfico de drogas e Constituição. Rio de Janeiro: Universidade Federal do Rio de Janeiro/Brasília: PNUD/Ministério da Justiça; 2009. (Série Pensando o Direito, 1).

2. Mathers BM, Degenhardt L, Ali H, Wiessing L, Hickman M, Mattick RP, et al. HIV prevention, treatment, and care services for people who inject drugs: a systematic review of global, regional, and national coverage. *Lancet* 2010; 375:1014-28.
3. Fonseca EM, Bastos FI. Os tratados internacionais antidrogas e o Brasil: políticas, desafios e perspectivas. In: Alarcon S, Jorge MAS, organizadores. *Álcool e outras drogas: diálogos sobre um mal-estar contemporâneo*. Rio de Janeiro: Editora Fiocruz; 2012. p. 15-44.
4. Russoniello K. The devil (and drugs) in the details: Portugal's focus on public health as a model for decriminalization of drugs in Mexico. *Yale J Health Policy Law Ethics* 2012; 12:371-431.
5. United Nations Office on Drugs and Crime. Joint statement. Compulsory drug detention and rehabilitation centres. http://www.unodc.org/documents/eastasiaandpacific//2012/03/drug-detention-centre/JC2310_Joint_Statement6March12FINAL_En.pdf.
6. Victora CG, Barreto ML, Leal MC, Monteiro CA, Schmidt MI, Paim J, et al. Health conditions and health-policy innovations in Brazil: the way forward. *Lancet* 2011; 377:2042-53.
7. Bastos FI. Structural violence in the context of drug policy and initiatives aiming to reduce drug-related harm in contemporary Brazil: a review. *Subst Use Misuse* 2012; 47:1603-10.
8. Malinowska-Sempruch K. Barcelona 2002: law, ethics, and human rights. The need for harm-reduction approaches in Eastern Europe and the former Soviet Union. *Can HIV AIDS Policy Law Rev* 2002; 7:84-8.
9. Wodak A. Going soft on evidence and due process: Canada adopts US style harm maximization. *Int J Drug Policy* 2008; 19:226-8.

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