CSP CADERNOS DE SAÚDE PÚBLICA
REPORTS IN PUBLIC HEALTH

Biopolitical dimensions of *Ruling n. 13/2021* by the Brazilian Ministry of Health: impacts on rights and on the fight against the stigmatization of certain groups of women

Dimensões biopolíticas da *Portaria nº 13/2021* do Ministério da Saúde: impactos nos direitos e no enfrentamento de estigmas de determinados grupos de mulheres

Dimensiones biopolíticas del *Decreto nº 13/2021* del Ministerio de Salud de Brasil: impactos en los derechos y combate de estigmas de determinados grupos de mujeres

Claudia Carneiro da Cunha [1]
Martha Cristina Nunes Moreira [2]

doi: 10.1590/0102-311X00124621

[1] Instituto de Psicologia, Universidade do Estado do Rio de Janeiro, Rio de Janeiro, Brasil.
[2] Instituto Nacional de Saúde da Mulher, da Criança e do Adolescente Fernandes Figueira, Fundação Oswaldo Cruz, Rio de Janeiro, Brasil.

Correspondence
C. C. Cunha
Instituto de Psicologia, Universidade do Estado do Rio de Janeiro.
Rua São Francisco Xavier 524, Rio de Janeiro, RJ 20550-900, Brasil.
cunha.claudia@gmail.com

On April 24, 2021, a live online event by a feminist collective on the "journey of women living with HIV/AIDS" denounced the harsh terms of *Ruling n. 13/2021* issued on April 19 by the Secretariat of Science and Technology (SCTIE) of the Brazilian Ministry of Health [1]. The ruling provides for subdermal etonogestrel implant, a hormonal long-acting reversible contraceptive (LARC) with three years of activity as a "strategy for the prevention of unwanted pregnancy" for certain "childbearing-age" women. The ruling is backed by a report by the National Commission for the Incorporation of Technologies in the Unified Health System (CONITEC) [2], under the Brazilian Ministry of Health, issuing conclusions on the budget impact of the method´s universal deployment and violating the principle of universal and equitable care in the Brazilian Unified National Health System (SUS) and the autonomy of these women over their bodies and reproductive lives.

The ruling merits discussion because of what it represents as a setback in an agenda that acknowledges women1s sexual and reproductive rights. This is particularly true for women that suffer social discrimination and stigmatization of the diseased body, the body viewed as belonging to the streets, and the incarcerated body. These three versions of the body sustain metaphors of risk and danger [3] and reactivate historically observed practices of control [4].

The current article addresses this situation in which narratives threaten rights, specifically with *Ruling n. 13/2021*, shedding light on a debate that features a background of victories in the field of women's rights, associating academic analyses in which biopolitics are woven into a form of control over what are interpreted as deviant female bodies, thereby threatening an agenda of sexual and reproductive rights for certain groups of women.

Importantly, the antecedents for the agenda of sexual and reproductive rights were the issues of population and women, respectively, in the International Conference on Population and Development in Cairo (Egypt) in 1994 and the Fourth World Conference on Women in Beijing (China) ,in 1995. The sexual and reproductive rights agenda was thus included in previously legitimized areas and did not represent a specific field of regulation [5].

The Cairo Conference was a key moment in building a certain "semantic field on reproduction" (reproductive health, reproductive rights), but also on sexuality as an issue to be consolidated in the human rights agenda. It was essential for the Action Program of the Conference to include definitions of reproductive rights and reproductive health as a "*state of complete physical, mental, and social*

wellbeing" [5] (p. 26), orienting "*a safe and satisfactory sexual life*" with the full right to choose on issues of reproduction [6] (p. 76).

Ruling n. 13/2021 thus violates sexual and reproductive rights in the name of avoiding "unwanted" pregnancies. There is a clear biopolitical dimension in its proposition. It is not just any women and bodies that are the targets of this act aimed at the "*prevention of unplanned pregnancy in childbearing-age women*". The ruling targets women marked by poverty, illness, and deviation: "*homeless women; women living with HIV/AIDS in use of dolutegravir; women in use of thalidomide; incarcerated women; sex workers; and women in treatment for TB with aminoglycosides*" [1].

Biopolitics [7,8], structured in the sense of maintenance of individual and collective life, is part of a wide interplay of relations, standardizing reproduction, determining family formats and the way of exercising sex (moralizing it), prizing the discipline of bodies, especially via healthcare. At the population level, the effects of biopower orient policies on sex and gender relations. Such effects are mobilized to "regulate" abject bodies that defy the norms, that purportedly mix some or all of the following elements: sex, eroticism, hierarchy, orgasm, risk, danger, reversal of roles, asymmetries, drugs, lack of control, unbridled desire, and violence, among others [9].

By incorporating the subdermal etonogestrel implant, the ruling literally intends to make bodies properly regulated. Here, it is not about guaranteeing special rights for more vulnerable individuals, as provided by the human rights framework when it considers the rights to equality and to difference, to specificity and to universality [5]. In this case, the women are not protected by the State for their "differences", but they will have to be protected from the State.

Public notes by the following organizations take positions on the ruling: the Brazilian Association of Collective Health (ABRASCO) [10], the Pernambuco State Committee for Studies on Maternal Mortality (CEEMM) [11], and the Brazilian Interdisciplinary AIDS Association (ABIA) [12]. The note by ABRASCO criticizes the ruling, as do the other two, for violating universal access to contraceptive methods, ignoring that access to all available modern reproductive planning methods is part of the consolidation of women's sexual and reproductive rights. The note further emphasizes that the ruling cites "childbearing-age women" generically, with no specification of age, implying the inclusion of adolescents, under 18 years, a group that is already stigmatized because pregnancy in this stage of life is interpreted as "early" or "unwanted". The note also underscores the pharmaceutical industry's unsuccessful interests dating to 2015, always with an eye to negotiating costs and thereby pushing the narrative of "special populations" or "vulnerable groups" as mandatory beneficiaries of these contraceptives.

The note by CEEMM emphasizes that in the name of care, the ruling mobilizes hygienist and control-based discourses. And the joint note issued by the ABIA on April 29, calling for a tweet storm with the hashtags *#EugenicsNo* and *#UniversalAccessYes*, reiterates that contraceptive methods should be made available universally rather than targeting certain groups as a population control measure. In the case of women living with HIV/AIDS, a field of research familiar to us, the violation of sexual and reproductive rights is a persistent reality. And the situation of incarcerated women, homeless women, and women in chronic use of thalidomide invokes the dimensions of stigma attached to them as an identity of risk and social threat.

During the live online meeting that inspired this article, when the question was raised, "What is it like to be in your skin?", one of the women moved all the participants when she reported a series of attacks and moral judgements she suffered during her pregnancy and childbirth. The situation, which had taken place more than a decade ago, is still repeated today, even with the availability (since the 1990s) of drug protocols to prevent mother-to-child HIV transmission.

Cunha [13] states that there is a "perverse silence" in relation to the sexuality and reproductive rights of women living with HIV/AIDS, even though many of them express the wish to have a child, despite it all [14]. The women share the perception that their seropositive status denies them the right to become pregnant, which explains a significant number of "voluntary" sterilizations, prescribed by healthcare professionals after the diagnosis [13].

Meanwhile, healthcare professionals are not "immune" from the social representations that consider the child and childhood as a value, the "pure side" in the case of a stigmatized disease like AIDS [15]. They are also not free from reproducing the symbolic marks of the disease, such as those evoking "contagion", one of the strongest images in the notion of the other as a source of threat and danger [16].

As for the incarcerated female body, one should ask why a "body out of circulation" can further interest the biopolitical control strategies, featuring stigma, controlling reproduction, as laid out by the ruling. Drawing on Cunha [17], when considering these incarcerated women, what is at stake is not only the contextual nature of imprisonment, which might suggest a certain disinterest on the part of the State due to the confinement that restricts and controls female inmates. The moralities continue to operate in the social relations connecting these women to the outside world, as a potential threat to the established order.

And in the case of women that use medicines for specific health conditions, such as those in tuberculosis (TB) treatment and those using thalidomide to treat leprosy, the association with relations of disqualification via stigma calls into question the reproductive autonomy of this group of women. Health conditions such as TB and leprosy still evoke marks of contagion, transmission, and risk, sustaining discourses of control and social discrimination.

Finally, returning to the joint note issued by ABIA, we support the statement that "*the targeting of certain groups for reproductive experiments or birth control strategies is an indelible stain on the history of Brazil and that of reproductive health more generally, where more vulnerable populations were and still are submitted to compulsory procedures that violate their human rights*" [12]. And even if *Ruling n. 13/2021* is not initially compulsory, it stirs up familiar winds alerting us to practices that violate the sexual and reproductive rights of women in situations of social vulnerability [18].

Contributors

Both authors contributed to the project conception, data analysis and interpretation, and writing of the article.

Additional informations

ORCID: Claudia Carneiro da Cunha (0000-0002-2338-6386); Martha Cristina Nunes Moreira (0000-0002-7199-3797).

References

1. Ministério da Saúde. Portaria nº 13, de 19 de abril de 2021. Torna pública a decisão de incorporar o implante subdérmico de etonogestrel, condicionada à criação de programa específico, na prevenção da gravidez não planejada para mulheres em idade fértil: em situação de rua; com HIV/AIDS em uso de dolutegravir; em uso de talidomida; privadas de liberdade; trabalhadoras do sexo; e em tratamento de tuberculose em uso de aminoglicosídeos, no âmbito do Sistema Único de Saúde – SUS. Diário Oficial da União 2021; 22 apr.
2. Comissão Nacional de Incorporação de Tecnologias no Sistema Único de Saúde. Implante subdérmico de etonogestrel na prevenção da gravidez não planejada por mulheres adultas em idade reprodutiva entre 18 e 49 anos. Brasília: Ministério da Saúde; 2021. (Relatório para a Sociedade, 232).
3. Lupton D. Risk (key ideas). London: Routledge; 1999.

4. Carrara S. Tributo a Vênus: a luta contra a sífilis no Brasil, da passagem do século aos anos 40. Rio de Janeiro: Editora Fiocruz; 1996.
5. Vianna A, Lacerda P. Direitos e políticas sexuais no Brasil: o panorama atual. Rio de Janeiro: Centro de Estudos e Pesquisa em Saúde Coletiva; 2004.
6. Ventura M. Direitos reprodutivos no Brasil. Brasília: Fundo de População das Nações Unidas; 2009.
7. Foucault M. História da sexualidade I – a vontade de saber. Rio de Janeiro: Edições Graal; 1985.
8. Foucault M. Em defesa da sociedade: curso no Collège de France (1975-1976). São Paulo: Martins Fontes; 1999. (Coleção Tópicos).
9. Cunha CC. "Jovens vivendo" com HIV/AIDS: (con)formação de sujeitos em meio a um embaraço [Doctoral Dissertation]. Rio de Janeiro: Museu Nacional, Universidade Federal do Rio de Janeiro; 2011.
10. Associação Brasileira de Saúde Coletiva. Nota da ABRASCO sobre a Portaria SCTIE/MS nº 13, de 19 de abril de 2021. https://www.abrasco.org.br/site/noticias/nota-da-abrasco-sobre-a-portaria-sctie-ms-no-13-de-19-de-abril-de-2021/58853/attachment/nota-da-abrasco-sobre-a-portaria-sctie_ms-no-13-de-19-de-abril-de-2021/ (accessed on 15/May/2021).
11. Comitê de Estudos de Mortalidade Materna. Nota do Controle Social acerca da Portaria SCTIE/MS nº 13, de 19 de abril de 2021. https://www.instagram.com/p/COF4LcfL45A/?utm_medium=copy_link (accessed on 02/Jul/2021).
12. Associação Brasileira Interdisciplinar de AIDS. Nota conjunta contra a Portaria nº 13/2021, de 29 de abril de 2021. https://abiaids.org.br/em-nota-organizacoes-exigem-que-ministerio-da-saude-revogue-portaria-que-institui-implante-para-prevencao-de-gravidez-indesejada-de-mulheres-que-vivem-com-hiv-aids-e-outras-situacoes-de-vulnerabilida/34780 (accessed on 15/May/2021).
13. Cunha CC. Entre tramas e dramas: os significados do tratamento para mulheres de camadas populares vivendo com HIV/Aids. Physis (Rio J.) 2010; 20:931-51.
14. Paiva V, Lima TN, Santos N, Ventura-Filipe E, Segurado A. Sem direito de amar? A vontade de ter filhos entre homens (e mulheres) vivendo com o HIV. Psicol USP 2020; 13:105-33.
15. Moreira MCN, Cunha CC. Repensando as práticas e dilemas no cotidiano de atenção à saúde de crianças e jovens vivendo com HIV/AIDS. Divulg Saúde Debate 2003; 29:73-92.
16. Czeresnia D. Do contágio à transmissão: ciência e cultura na gênese do conhecimento epidemiológico. Rio de Janeiro: Editora Fiocruz; 1997.
17. Cunha MI. Fronteiras corpóreas e incorporações prisionais. Tempo Social 2019; 31:17-36.
18. Citeli MT. A pesquisa sobre sexualidade e direitos sexuais no Brasil (1990-2002): revisão crítica. Rio de Janeiro: Centro de Estudos, Pesquisa e Desenvolvimento Tecnológico em Saúde Coletiva; 2005.

Submitted on 19/May/2021
Final version resubmitted on 03/Jun/2021
Approved on 11/Jun/2021