

Drugs legalization under the bioethics of protection perspective

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Resumo

Os brasileiros convivem com acentuada desigualdade social, que envolve problemas característicos dos países subdesenvolvidos, como pobreza, fome, miséria, violência. A legalização das drogas no país apresenta-se como questão complexa e desafiadora, requerendo discussão contextualizada e diferenciada quando se trata de projetar políticas públicas aplicáveis equanimemente. O objetivo do estudo foi refletir sobre a legalização das drogas à luz da bioética da proteção, que considera as contingências de países latino-americanos com suas especificidades e fornece subsídios aos debates e condutas em relação ao assunto. A metodologia consistiu na busca, leitura e discussão de artigos acessados em bases de dados da Biblioteca Virtual em Saúde, livros e documentos oficiais que versam sobre políticas e legislação sobre drogas. A construção do artigo permitiu compreender a complexidade do tema e a necessidade de ultrapassar a compreensão ingênua e as posições extremistas de repressão ou da legalização em relação ao consumo de drogas ilícitas.

Palavras-chave: Bioética. Controle de medicamentos e entorpecentes. Drogas ilícitas. Políticas públicas.

Resumen

Legalización de drogas bajo la perspectiva de la bioética de la protección

Los brasileños viven con marcada desigualdad social, que implica problemas característicos de los países en vías de desarrollo, como la pobreza, el hambre, la miseria, la violencia. La legalización de las drogas en el país se presenta como una cuestión compleja y desafiadora, que requiere una discusión contextualizada y diferenciada, cuando se trata de proyectar las políticas públicas aplicables de modo ecuánime. El estudio tuvo como objetivo reflexionar sobre la legalización de las drogas a la luz de la bioética de la protección, que considera las contingencias de países latinoamericanos con sus especificidades y proporciona subsidios a los debates y conductas con relación al tema. La metodología consistió en la búsqueda, lectura y discusión de artículos accesibles en bases de datos de la Biblioteca Virtual en Salud, libros y documentos oficiales que tratan de las políticas y legislación sobre drogas. La construcción del artículo permitió entender la complejidad del tema y la necesidad de superar la comprensión ingenua y posiciones extremistas de la represión o de la legalización excesiva en relación con el consumo de drogas ilícitas.

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Abstract

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Brazilians is still marked by social inequality that involves characteristic problems of underdeveloped countries, such as poverty, hunger, misery, violence. Drugs legalization in the country presents itself as a complex and challenging issue that requires a contextualized and differentiated discussion, when it comes to designing public policies fairly applicable. The study aims to reflect on drugs legalization under the light of bioethics of protection, which considers Latin-American countries contingencies with their specificities and provides subsidies for discussions and management on the matter. Methodology consisted of searching, reading and discussing articles accessed in Virtual Health Library databases, books and official documents that deal with policies and legislation on drugs. The construction of the article made it possible to understand the complexity of the issue and the need of overcoming the naive understanding and the extremist positions of repression or excessive legalization in relation to illicit drugs consumption.

Key words: Bioethics. Drugs and narcotic control. Street drugs. Public policies.

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Nowadays the debate on drugs is guided in speeches that are to be scientific, but which, in fact, they treat the problem in a dichotomous and Manichean way. On the one hand, the discussion is seen as a public safety issue, whose emphasis is on the prosecution and punishment of drug users. On the other, it is noted as a public health issue, with emphasis on the health of users, which involves not only the total or partial abstinence from drugs, but mainly harm reduction ¹.

What has been truly challenging governments and researchers is to find the balance between exercising some control for the protection of public health, and avoid the negative consequences of overly repressive control ². The Brazilian legislation on drugs ³, in force since October 2006, establishes the National System of public policies on Drugs (Sisnad) and prescribes measures to prevent the improper (abusive) use, attention and social reintegration of users and drug addicts, it also establishes standards for crackdown on unauthorized production and illicit trafficking and provides other providences regarding the collection, analysis and dissemination of information about drugs.

According to this law, planting on a small amount and drug possession for personal consumption is no longer a crime. It is noted that the word drug should be understood as plants and substrates of which these can be extracted or produced. In order to determine whether the drug was intended to personal consumption, the judge will consider the nature and quantity of the substance seized, the place and the conditions under which the action was developed, the social and personal circumstances, as well as the behavior and record of the agent. Personal use is a crime when it is committed ostensibly and in places which there are concentration of children and teenagers, such as in schools, for example. Similarly, trafficking, even small amount, remains a crime ³.

While retaining the remaining legal procedures for the treatment of drug users, one of the main changes determined by this law was the extinction of the possibility of criminal sanction. However, the institutions responsible for the Legal administration of the cases of drug use remained the same, i.e., the judiciary and public security institutions, such as the police and criminal justice ⁴.

What stands out the most at the moment is the fact that the human aspect of the problem of drug use is being faced with greater courage and in another approach, more direct, beating old dogmas, based on public security policies of repres-

sion, which constitute real obstacles to the effective solution of the issue. Thus, the government and Brazilian society began to worry about promoting comprehensive actions and developing proposals for prevention and more appropriate treatment to focus on public health ⁵.

This process of change in legislation is articulated with the ideals of the bioethics of protection, because it takes the focus of drug enforcement and transfers it to the protection of users that are part of the vulnerable population, members of societies with large inequality, in which drugs are considered as a "scapegoat" for social grievances.

The bioethics of protection can be understood as a normative and critical reflection toward the moral conflict resulting from human praxis. It is recent and it was understood initially as the ethics applied to public health, extending its concept for a bioethics which applies to moral conflicts involved by human practices which can generate irreversible consequences in living beings, mainly on individuals and human populations, considered in their ecological biotechnoscientific and sociocultural contexts ⁶.

From this perspective, the relevance of the study is to encourage reflection on the legalization of drugs in Brazil, considering that it is naive to polarize the debate between legalizing or prohibiting them, because it is a country with great social inequalities and enormous cultural diversity, which requires a contextualized and asymmetric approach, to think about fair and equitable public policy. So, it is from this multiplicity of aspects that affects this question which arises the objective of this study, which is to reflect on the legalization of drugs in the light of the bioethics of protection.

Method

The approach of the proposed theme involved the search for articles in databases broadcast on Virtual Health Library (VHL), books related to the subject and official documents that deal with policies and the legislation related to drugs. The keywords used in the search were selected from the Health Sciences Descriptors (MeSH), including *bioethics*, *drug control*, *illicit drugs* and *public policies*. The text was constructed in the period from May to July 2012, consisting of the following steps: identification of the bibliographic material, critical reading and discussion on the material and the definition of thematic areas: legislation on drugs in the world and Brazil, considerations about the bioethics of protec-

tion and legalization of drugs in Brazil from the perspective the bioethics of protection.

Legislation on drugs: global and Brazilian context

The attempts to exercise control over drug use have their origin in the desire to protect the welfare of human beings. International bodies concerned with the impact of drugs on public health recommend banning the use of some substances, by defining measures to eliminate their production, distribution and consumption. The original text of the first drug control treaty of the United Nations (UN) in 1961 demonstrates the morality of the speech of that time to mention the concern for the health and welfare of humanity. Since then, the steadily illicit drugs economy has grown and reached the market stability in the early 1990s⁷.

But from the 1970s, the elaboration of more refined theories to understand the drug phenomenon has started, both in regard to the issue of consumption as the control and relating to its use. Such theories are configured into four ideal types of action to prevent the use of drugs: the moral-legal model, the medical or public health model, the psychosocial model and the sociocultural model. Despite the singularities, all theories have the same triad as a reference: the individual, the substance and context – differing, however, regarding its emphasis and meanings attributed to each one of these elements⁸.

A growing group of countries, which was mostly European, began, still in the 1980s, to deviate from the approach of zero tolerance for the smallest gap between repression and protection. This context has contributed to social mobilization in order to organize themselves into international networks that influence and tend to drive the improvement of public policies on drugs, such as the International Association of Harm Reduction and the International Consortium on Drug Policy⁷.

The prohibition of drug use in the world

In several countries, for example, Spain, Portugal, Italy, Argentina, Mexico and Colombia, the drug legalization is a reality and it has shown positive results in almost all nations that adopted it. Advocating the legalization of the production and commercialization does not mean praising the drug use. Rather, it can function as combat skills and awareness, since, in this way, all the money invested to keep the prohibition could be reversed in the funding of educational campaigns⁹.

Countries that have developed, in recent decades, innovative policies to face the issue of illicit drug use were based on both decriminalization of the user and the policy of harm reduction. This consists in the strategy that realizes the addict as someone who needs to be helped, rather than treating him as a criminal who should be punished, so considering the drug as a public health issue¹⁰.

The policy of harm reduction has opened different spaces for sociability of consumers of illicit drugs. They were formulated in the Netherlands in the mid-80s, and born with the program of distribution of disposable syringes for injecting drug users, which avoids the sharing, in order to prevent the spread of HIV and other antigens which can cause diseases¹¹.

It is worth noting that the costs, both social and economic and emotional of drugs only increase, so that there is a tendency to seek solutions such as legalization. Even though it is believed that taking the profit of the number of crimes pushers associated with the use of drugs decreases, and then making drugs legally available there are health benefits – such as, for example, the prevention of diseases, from availability of higher quality drug and sterile syringes and needles – it is still not clear how this would be the operationalization of this process, hindering the understanding of the subject¹².

However, the arguments in favor of legalization – they consider the benefits to public health – have a weak appeal, because when they are analyzed with details they cannot be supported in view of the direct action of psychoactive substances, especially those of higher potential to cause depending, such as crack, because it activates neural circuits boosters, and it increases the probability of being used again¹².

Countries in favor of legalizing consider that criminalizing the use does not prevent society of remaining sick. Only in the United States of America (USA), where repression is stronger, a study reproduced by the newspaper *O Globo*, in 2001 showed that 45% of students say they have already used marijuana, which proves that the fight by force does not have the effect expected by governments¹³. In addition, by taking into consideration the appropriate proportions of territory and population, Americans spend about 60 million dollars a year buying illicit drugs, while the Dutch people, who have an easier access, because legalization eases the acquisition in the market and they consume less than a half of that amount¹³.

In 1994, Switzerland also adopted the strategy of harm reduction through the program for the treatment of heroin administration and the establishment of supervised injection rooms for about 3,000 problematic users of this drug. Thus, between 10% and 15% of dependent users and between 30% and 60% of consumers now receive the drug for free ¹⁴. This possibility was negotiated by the government, which was guided by the assessment that heroin addicts, if they legally received it, would leave crimes and drug trafficking. With this measure, the annual number of new users in the country fell from 850 in 1990 to 150 in 2005, and about a third of these people abstained spontaneously from drugs and without therapeutic intervention. Another impact of the strategy was the unfeasibility of the illegal heroin market, which led to 90% of fall in property crimes, before committed by users who now participate in the government program. However, in 2008, a referendum rejected the end of the program with more than two-thirds of the votes. Furthermore, the legalization of marijuana in Switzerland was also rejected ¹⁴.

The prohibition of drug use in Brazil

Brazilian scientific production about the legal and illegal psychoactive substances starts to increase significantly from the decade of 1980. Despite the notable increase of studies based on the sociocultural perspective, epidemiological and positivist researches still occupy a dominant position in the production on the subject ⁸.

In colonial Brazil, the Philippines Ordinances, Legal Compilation 1595 which was based on Portuguese law until the nineteenth century, determined that the individual kept at home substances like opium could lose the farm and sent to the Africa. This legislation was followed by the Criminal Code of 1890 consolidation of the criminal code of 1932, Decree 780 and enactment of the 1940 Penal Code, 15 which suppressed the pain of exile, but retained conviction for possession.

During this period, the predominant health and legal discourse is based on the understanding that the drug reaches the user and it presents a danger to the community. Thus, the harmony of society would be achieved through an oppressive criminal law, allowing greater social control, as well as increase the feeling of security that the problem of drug use was solved. This ideology resulted in the drafting and promulgation of legal texts, exemplified in the 1976 Narcotics Law 17 (repealed by the new law of 2006), Heinous Crimes Law 18 and Law 19 of the Organized Crime, and the first of these

consolidated the association between drug user and dealer.

Until then considered the drugs most important than the reasons for its consumption and its effect of causing addiction. The 1988 Constitution defines drug trafficking as a felony, proposing the confiscation of traffickers and authorization for the expropriation of land used in the illicit cultivation, but also becomes the obligation of the state to maintain programs of prevention and assistance drug users, although, historically, investments are intended to repression, to the detriment of prevention. However, the prohibition model control of drug use in Brazil did not succeed in any aspect. What really happened was that instead of minimizing damage, decreased to quality drugs in circulation, and users have become even more vulnerable, causing overcrowding of prisons with individuals who are not necessarily traffickers, but arguably dependent ²⁰.

In 1991, the Ministry of Health created the Office of Attention to Alcoholism and Chemical Dependency as an additional service so Coordination of Mental Health. The actions of this service were the back-to prevention, care and treatment in the context of the drug, to reduce the demand increasing consumption, from the change of paradigms ma population through the implementation of new health care model, with actions to support and expand the network of mental health services ¹. The failure of the government's stance, which, in practice, failed to curb the use and abuse of drugs in 2002 was enacted Law 10,409, seeking to balance the national legislation and international conventions. International documents on which Brazil was signed based on the differentiation between the treatment offered to the user/victim, demonstrating strong tendency towards decriminalization. The internal legislation gave the state the option to compulsorily arrest people in order to ensure public health and, for safety reasons, help to preserve the individual rights of reclusive people for treatment or rehabilitation. In line with this international movement, in Brazil, in 2006, the Law 11.343 was enacted, which brought important changes, eliminating prison sentence for the user/dependent and distinguishing user of dependent on drugs for the purpose of giving the most reasonable direction for each concrete case: warning about the effects of drugs, serving the community or educational measure of attendance at an educational program or course ¹⁵.

The legalization of drugs could contribute to the increased demand of users in health services, given that they would not feel marginalized any-

more and have the opportunity to enjoy public service policies. The greater control on the funds from drug commercialization could be achieved by governmental authorities, making the investment of them in prevention and treatment possible. However, it is utopian to think that this dynamic in a country with a precarious health system, since it is difficult to conceive that the resources coming from tax collection with the legalization of drugs could be targeted to health, and even more to treat addicts, who the society creates and at the same time discriminates²¹.

When it is thought of legalizing the use of drugs, the three main reasons for this are: human rights, because the person has the right and should be able to take decisions on his own life; violence, which is believed to be reduced, as occurred with the Netherlands and Portugal, and restricting access to drugs by young people, because the commercialization would be regulated by the government, which would prohibit its sale to people under 18 years old²⁰, such as alcohol and tobacco. However, the author believes that the comparison of the Brazilian legislation with the criminal drug laws of most European countries demonstrates the diversity of positions within the same prohibitionist system: some have more rational thoughts, defending the autonomy and freedom of drug users, others think in a more radical and repressive way.

The National Drug Policy (PNAD) of 2005 was constituted from realignment of National Drug Policy 2003 has the purpose of building a society protected from illicit drugs and the misuse of legal drugs. It is based on the principle of shared responsibility, focusing the efforts of various social and government segments in order to achieve the reduction of supply and consumption of drugs as a result of the efficiency of their actions²².

In view of the sustainability of these actions, PNAD set goals that consist in the interaction between government and society, health promotion, respect for human rights and social inclusion as key factors to build this protected society. Under an expanded dimension, the proposal is also in the context of a socially sustainable development, i.e., based on the principle of shared responsibility, concentrating efforts of several social and governmental segments in favor of the effectiveness of actions that may reduce the supply and consumption of drugs and ease the popular participation²³.

The current commitment of social institutions and non-governmental organizations is not turned to prophylactic actions, but immediate, and

ignoring the construction of a network of protective measures of society. Thus, social problems are perpetuated, reinforcing palliative and punctual actions that do not solve the problem in essence²⁴. It is further considered that a policy which is not intended, concomitantly, to adopt strategies to reduce damage and put into practice repressive approaches of eradication of illicit drugs, based on assumptions and guidelines that recommend a different treatment for the different types of drug users, thus discriminating them – as they are currently carried out by PNAD²⁴.

From the analysis of legal evolution of the theme illicit drugs in Brazil, there is movement toward regulation of legal principles based on international conventions, in order to balance the human rights of drug users in health policy and public security. Despite the significant inequality and social exclusion in Brazilian social and economic context, it stands out as a complex social process which has not yet allowed the legalization of drugs due to uncontrolled consumption of narcotics and their commercialization which also occurs in developed countries such as the Netherlands. Drug legalization in Brazil could result in social harm and health problems of the population, which would imply the need for large investments in the various dimensions involving human life.

However, there is no doubt that the alternative model, which is more humane, rational, thoughtful and appropriate, is the controlled legalization, which has been experienced in developed countries, for example, in the Netherlands, Switzerland, Canada, Portugal and the recent Latin-American proposal of Uruguay. However, we should think primarily on investments in the education of citizens aware of their role in society, which may be implemented through educational measures integrated in the various areas of knowledge, leading to formation of young people able to discern the consequences of indiscriminate use of drugs.

Considerations on the bioethics of protection

Latin American researchers formulated the bioethics of protection before the need to think a tool distinct from bioethical principlism, given that this is insufficient to address health conflicts. So the bioethics of protection it referred to, essentially, to them⁶. It was necessary to transform and adapt the theoretical and practical body of traditional and principlist bioethics, to the conflicts related to

public health in Latin America, a region of the world that has problems of its own, but shares of other problems that affect humanity and the planet as a whole, such as the social exclusion that violates the principle of justice, and environmental destruction that violates both the principle of the sacredness of life as the quality of life ²⁵.

It was therefore imperative to create utilitarian perspective in a short term, which can cause reflection and guide public health practices in marginalized societies of pragmatism and neoliberal globalization, which emphasizes individual autonomy based on the principles of French Revolution – liberty, equality and fraternity – and presupposes civic equality for all citizens ²⁶. It should be mentioned that the concept of autonomy cannot be applied to the societies of the Third World, because they live with the ideals of the policy of the social contract *de jure*, however not always actually configuring social structures with profoundly unequal classes with ²⁶.

The specific conditions of developing countries, such as extreme poverty, can make people hostages and victims of the violation of other liberties necessary to accomplish their life goals because they are deprived of the power to have a dignified life objectively and subjectively ²⁵. Thus, the main target of bioethics of protection is equip individuals and vulnerable populations, which are excluded from the process of globalization and unable to face adversity ⁶. However, despite being harmonized with the Latin American contingent, it also may be understood as a branch of world bioethics because it is also committed to the morality of the global ²⁵.

It is from this understanding that the bioethics of protection becomes an appropriate theoretical framework to support the discussion on illegal drugs, which is considered a global problem, given the extent of the improperly consumption of these substances worldwide. In this case, however, the application of bioethics of protection would adopt the concept of protection in its *lato* sense, which cares about the survival of humanity ²⁵. Moreover, illicit drugs also affect, and first, vulnerable individuals and populations, which are the targets of the bioethics of *stricto sensu* protection, and is regarded to measures of support to individuals and human populations that have no other resources, to ensure indispensable conditions so that the human being can carry on their lives with dignity and quality, and not only have meager means of survival ²⁷.

It is important to draw some considerations on the distinction between the terms *vulnerable* and *violated*, which are used in the bioethics of pro-

tection. This considers the existence of the vulnerability – possibility of being hurt – as the universal condition of all living beings, and the human being is not only in their body, but also in the construction of his existential project ²⁸. This understanding allows us to infer that adverse circumstances, for example sickness, poverty, crippling disabilities, discrimination, among others, can aggravate human vulnerability, causing the condition of specific vulnerability or susceptibility, which converts him as *vulnerable* ²⁶.

Both vulnerable need state intervention and/or social institutions, in order to offer them protection, but such protection should be implemented to varying degrees, considering the existential condition of vulnerability of each group. Thus, compliance with the principle of justice (equality for all) to the vulnerable and the principle of fairness (differential treatment to those who are disadvantaged due to social inequalities) for vulnerable ones are guaranteed. However, we must be careful not to exceed the limits of protection advocated by this aspect of bioethics. If this barrier is traversed, it will incur in a mistake in the exercise of paternalism to thwart one of the basic rights of democratic societies needs: the right to the exercise of personal autonomy

The protection required by the bioethics of protection operates the development of personal potentialities, necessary for the individual to leverage their own capabilities, including on the extent of their autonomy in order to offer appropriate conditions to make competent choices ²⁸. Paternalism involves protection to individuals and populations that, nevertheless liable or specifically affected negatively, they can confront this existential condition with own resources or the ones offered by existing and active institutions ²⁵.

In view of the existence of these asymmetries, among those who have the means and power to enable them to have quality of life (at least reasonable) and who do not have them, bioethics of protection offers a way to solve the conflict between empowered and not empowered. A fair solution would be achieved by protecting the empowered not affected as they do not actually have the means to defending themselves against threats and damage that impair their quality of life and their legitimate interests ⁶. In a society in which there are different social groups, and often in conflict, it is not possible to think of strategies derived from universal, abstract and decontextualized rule, to solve all moral conflicts ²⁹.

Bioethics of protection and drug legalization in Brazil

Currently, the socio-economic development of Brazil has contributed to its advancement in science and technology, with high visibility on the part of the world. However, there are still significant social inequalities, which indicate the need for heterogeneous policy, based on equity, which allows applications contextualized, so that justice is feasible. In this perspective, in which the ideals of bioethics of protection are inserted; in terms of complexity of the debate around the legalization of drugs is a problem of world order. In Brazil, the reflection should consider that most of the population is on the edge of civil rights, and sometimes private human rights. In this sense, the extreme positions involving mixed legalization or total repression are wrong thinking with serious bioethical implications. Then the following will be presented speeches for and against the legalization of drugs, which will be discussed in parallel, seeking to establish consensus and counterpoints.

The first of discourse refers to the autonomy, relying on the premise that every individual has the right to choose and the ban could sound as patronizing. But the bioethics of protection refuses the understanding of an "absolute autonomy" which does not consider the situations of worsening existential vulnerability, which disfavor the exercise of autonomy, resulting in increased vulnerability of the subject ²⁸. In this sense, the use of drugs in general is related to situations such as poverty, disease and unemployment, which make vulnerable users and, therefore, they need a state action, which has the duty to protect its citizens, offering them minimum conditions for survival, as health, education, food, work, leisure. When these resources are available to the subjects, they favor the exercise of autonomy and sensitize citizens to carry out competent choices, which are based on full knowledge of the risks ²⁵.

The second position argues that, with legalization, discrimination of drug users could decrease and increase demand for the treatment, since many users do not seek the services of health by being involved in illegal and criminal context, although not criminals. Still others understand the prohibition as big failure, claiming that after years of repression and restrictions on the use of drugs, consumption and damage have only increased.

The third argument is related to the anti-drug war as a waste of resources, based on the context of that prohibition makes the drug market profit-

able, which decreases the quality of substances and health of users, overcrowding prisons and making violence increase. Moreover, the illegal market puts the user, "consumer", in a relation of discredit before the trafficker, who is the "trader" since the first one does not have equal rights with regard to the quality of the "product". Another problem is that many users are hostages of traffickers, since the debts of drugs are usually paid with their own life.

The massive state failures also contribute to ease the production and trade of these substances, when they are not encouraged, because there is little control over money laundering, the products used in the refining of cocaine and the origin of the money that moves the financial market ³⁰. And, it should also consider whether the state is so inefficient in combating drugs, is that after legalization, will supervision improve? This absence or disability of control measures adversely affects the public health, since there is uncertainty on the transfer of legal sanctions of drugs to public health, in case they are legalized.

Moreover, a contradiction is identified in proposition of legalizing the use of drugs and criminalizing the sale because if the use is decriminalized, the sale should be free and, mainly, control the market for the production and sale should be taken into consideration ². And if the Brazilian State becomes a seller, as proposed by Uruguay, it would also be contradictory, because it would sell an illegal product. The lack of clarification about who will produce and market the drugs if they were legalized, is added to the uncertainty about the interest of organized crime become company with legal responsibilities. This latter assumption cannot be ruled out, since there are many front companies meant only to money laundering by criminal organizations. Thus, it is noted that the moral/legal background, which consists of state collusion with organized crime, through the possibility of regulation of companies aiming to the drug commercialization.

In this sense, it is not possible to ignore direct relation among illicit drugs and increased crime and violence as drug cartels fighting activities undermine governments and corrupt corporate actions legal. In some countries, more than half of robberies are committed by addicts to support their habits-there, and the resources that the sale of illicit drugs generates serious finance armed conflicts ³¹. Quite controversial is also the argument concerned to the moral discourse that accepts alcohol and tobacco and criminalize other drugs, with no other plausible criterion unless the weak claim cultural, not to mention

the biggest public health problem regarding drugs is relative to alcohol, and the alcohol-tobacco association was found as a risk factor for cocaine use³². productive age, who leaves to contribute to the economy.

Therefore, there is a positioning declared that the discussion should move in the opposite direction: instead of debating the legalization of drugs which are considered illicit, there should be mechanisms for greater control and restriction of legal drugs. Indeed, the widespread tolerance in relation to these last ones has negative repercussions in society, emphasizing the strangeness for small supervision of tobacco commercialization on the part of the State³². One of those concerns is that the highest supply encourages demand and increases the individual use, without the historical social function of collective use, considering that the illegality of drugs also works as a deterrent positive factor.

Another concern is that legalizing drugs may mask social problems which already exist in the country, such as the conditions which make young people have, in traffic, the only alternative of job and income. It is not possible to compare the Brazilian reality with the one of developed countries that adopts more liberal attitudes, since, in these contexts, the social reality is different and citizens have higher levels of education, different working conditions, among other social guarantees. Thus, even before the crisis of unemployment in European countries, housing, food and transportation conditions, and leisure opportunities are broader than in underdeveloped countries.

Before so many contradictions, there is some consensus on topics that should be the major focus of the debate on drugs in the country. These topics are related to the need for decriminalization and legalization of the use and the user; creation and, mainly, the implementation of broad intersection policies prevention against the use of all types of

drugs; increase of access and quality treatment; to control the advertising of legal drugs and the greater involvement of society in the discussion, highlighting the health and life.

Final considerations

Although in this article the discussion of the subject have been predominantly from the point of view of health and not from the public safety, we know that the drug problem is very complex and should be thought of as a global social problem. Therefore, it needs to be discussed from the interdisciplinary and intersection perspective, and under a naïve perspective. Such discussion is essential so that sensible and responsible projects can be adopted regarding the legalization of drugs, especially in Brazil, where it was not possible to solve simpler urgent and less dilemmatic issues, such as the reduction of social inequalities and the improvement of basic sanitation and the issue of hunger and extreme poverty.

It is in this context that we seek to avoid extremist viewpoints, which are doomed to dissatisfactory results, in which the present work is fitted, which seeks to show the parameters for reflection on the subject. In order to approach the emerging bioethics of protection, which, we believe, can be the tool of applied ethics that can guide the conduct of managers, researchers, organized civil society and health workers, especially in the field of mental health. It is considered that this aspect of bioethics can help these professionals to make critical-reflective decisions in order to contribute to building a fairer and more egalitarian society, with the implementation of health and social policies for the promotion of quality of life of the vulnerable populations. Adopting, therefore, these criteria may be essential in order to elucidate confrontational situations such as those arising in the process of involuntary hospitalization, which is currently discussed in the country.

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Participation of the authors

Luma Costa Pereira and Isabel Silva de Jesus were responsible for the conception of the study and they collaborated with the research of the bibliographic material, writing the article and review of the bibliographical references.

Ayana de Souza Barbuda was responsible for the conception of the study, collection of references, writing the manuscript and discussion.

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