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PUBLIC POLICIES ON DRUGS: ORIGINS AND DEVELOPMENTS OF THE BRAZILIAN PUNITIVE MODEL

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ABSTRACT

This article presents a critical analysis of the evolution of drug policies in Brazil, from the colonial period to the present day. The research demonstrates how the prohibitionist model, present since the Philippine Ordinances, has been consolidated as the only strategy to combat drugs over the centuries, undergoing few changes only in the last three decades. Historical analysis reveals a tightening of laws, especially during the Civil-Military Dictatorship, with the criminalization of drug use and the strengthening of the logic of the "War on Drugs". With the promulgation of the 1988 Constitution, there was a paradigm shift, with the recognition of health as a fundamental right and the creation of the Unified Health System. Despite this, the prohibitionist model persisted, although with some nuances. The article reflects on the ineffectiveness of the prohibitionist model in reducing consumption and organized crime, arguing for the need for a more humanitarian approach based on scientific evidence. Finally, the present work also proposed to critically analyze the current public policies, unraveling the characteristics of each one of them.

Keywords: Public policies, History of Brazil, Punitivism, Collective health, National Plan for Drug Policies.

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Revista ARACÊ
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INTRODUCTION

News involving episodes of violence related to drug consumption or trafficking are daily in most of the world's large metropolises and, in Brazil, the scenario could not be different. However, contrary to what is often preached by popular sayings, the problems linked to the world of drugs are not an exclusive and recent reality in human history. The recreational use of chemical substances, or drugs, whether natural or artificial, crosses the annals of history for the most diverse reasons.

While, on the one hand, the first records of alcohol consumption and production date back to at least 7 thousand BC (PHILLIPS, 2020), the consumption and planting of Cannabis sativa, popularly called marijuana, date back to at least 3 thousand years before alcohol, in 10 thousand BC, in Central Asia (LOPES, 2006). Based on this brief synthesis, it is possible to assimilate that the production and consumption of drugs have accompanied the history of humanity since its beginnings.

However, during the middle of the twentieth century, with the evolution of the chemical-pharmaceutical industries, new artificial substances were synthesized, creating the need for the use of these drugs to be controlled or prohibited by the government (LOPES, 2006). One of the first initiatives aimed at the eradication of substance use and drug control took place in 1961, at the New York headquarters of the United Nations (UN). On January 24 and 25 of that year, the Single Convention on Narcotic Drugs was held, which was attended by representatives of 73 member countries, as well as other non-governmental entities (UNITED NATIONS OFFICE ON DRUGS AND CRIME - UNODC, [s.d.]).

However, it is worth noting that Brazilian public policies against substance use and drug control precede the ratification of the aforementioned International Convention and have a central element in common: prohibitionism as a central mechanism of operation and the adoption of policies aimed at public security as government projects.

The relevance of the topic is intensified by the ineffectiveness of the measures adopted to reduce the consumption of illicit substances and combat organized crime. This problematic scenario justifies a critical analysis of the strategies implemented and the search for approaches that prioritize collective health, social reintegration and harm reduction, moving away from the current repressive model.

Revista ARACÊ
ISSN: 2358-2472

METHODOLOGY

To understand the roots of this issue, this study uses a historical-descriptive methodology, revisiting the trajectory of public anti-drug policies in Brazil from the colonial period to the present day. Based on legislative sources, official documents, and academic literature, the research examines the evolution of these policies, highlighting the most significant normative frameworks and their consequences on the country's social and penal scenario.

The article is structured in four main chapters. The first chapter addresses the emergence of anti-drug policies in Brazil, with emphasis on the prohibitionist model implemented since the Philippine Ordinances and consolidated over the centuries. The second chapter analyzes the transformations that occurred after the promulgation of the 1988 Constitution, which brought new paradigms in the field of public health and in the relationship of the State with the theme of drugs. In the third chapter, current public policies on drugs are explored, with emphasis on the creation of the National System of Public Policies on Drugs (SISNAD) and its implications. Finally, the fourth chapter discusses the limitations of the current model and presents possible paths for the reformulation of anti-drug policies, advocating a more humanitarian approach based on scientific evidence.

RESULTS

Based on the historical and critical analysis of anti-drug policies in Brazil, the results of the present study show that the prohibitionist model, in force since the Philippine Ordinances and reinforced over the centuries, has shown low effectiveness both in reducing drug consumption and in combating organized crime. The research reveals that the tightening of laws, particularly during the Civil-Military Dictatorship, contributed to the criminalization of the user, equating him to the trafficker, which resulted in the overcrowding of the penal system and the stigmatization of a vulnerable portion of the population. Despite attempts to make the rules more flexible with the enactment of the 1988 Constitution, which brought public health as a fundamental right and stimulated new prevention policies, the prohibitionist logic still prevails, perpetuating social inequalities and hindering the rehabilitation and reintegration of drug users into society.

Another significant result of the work was the finding that current public policies, although they seek to integrate public health and safety actions, are still far from achieving effective results. The creation of the National System of Public Policies on Drugs (SISNAD)

Revista ARACÊ
ISSN: 2358-2472

and the implementation of strategies aimed at harm reduction were important steps, but insufficient in the face of the complexity of the problem. The analysis shows that Brazil still lacks a more humanitarian, evidence-based approach that prioritizes prevention and treatment, rather than focusing exclusively on repression. The results indicate that there is an urgent need to reformulate anti-drug policies, with a more inclusive focus and focused on public health, in order to minimize the negative social and economic impacts generated by the current model.

DISCUSSION

THE HISTORY OF PROHIBITIONIST ANTI-DRUG POLICY IN BRAZIL

State anti-drug policies in Brazil are not exclusive to the last hundred years of history and, since their inception, they have been guided by the ideal of prohibiting access to substances in society in general. Even before the proclamation of Brazil's independence, in 1822, Brazil already had normative texts that regulated and limited the production, trade, and use of certain substances and products. The Philippine Ordinances, which came into force in Brazil from 1603, already had in their wording, more precisely in Book V, the prohibition of the use and trade of toxic substances (PORTUGAL, 1747). In verbis:

> Title LXXXIX.
> **Let no one have rosar in his house, nor sell him or any other poisonous material.**
> No person has in his house to sell rosalgar white, or red, or yellow, or solimao, or water from it, or escamonéa, or opium, unless he is an examined apothecary, and who has a license to have an apothecary, and to use the Officio. And any other person who has in his house some of the said things to sell, lose his entire farm, half to our Camera, and the other to whoever accuses him, and be exiled to Africa to our mercy. And the same penalty will be borne by those who bring the said things from abroad, and sell them to persons who are not apothecaries.
> [...]
> (our screams)

This aforementioned wording remained in force in Brazil even with the promulgation of Brazil's independence from the United Kingdom of Portugal, Brazil and the Algarves, in 1822. According to the excerpt, it is identified that the rule sought to punish only the possession, at home, of substances considered "poisonous" and the penalty consisted either of the loss of the land, or of secrecy to Africa. In this legislation, there was no mention of prohibitionist policies that punished both the use and sale of drugs.

In 1890, after the Republican Coup and the promulgation of the Republic in Brazil (FUINI, 2022), there was an update of the legislation that once again regulated the use of

Revista ARACÊ
ISSN: 2358-2472

substances and drug control. It is important to highlight that the Imperial Penal Code of 1830 did not address the subject, leaving a normative gap on the subject. With the entry into force of the Penal Code of the United States of Brazil, in 1890, there was a return to a typification that regulated the production, trade and use of certain drugs. This regulation took place in the form of article 159 of the above code and it had the following wording: "exposing for sale, or administering, poisonous substances without legitimate authorization and without the formalities prescribed in the sanitary regulations" (BRASIL, 1890). Brazilian legislation, as well as public policies, had not undergone major changes and remained superficial and scarce for at least two more decades. However, the first decades of the twentieth century brought new demands, especially from the international community.

In 1914, while Europe was on the eve of the outbreak of the First World War, the national legal system welcomed a new norm: Decree No. 2,861, of July 8, 1914. Promulgated by the then President of the Republic, Hermes da Fonseca (BRASIL, 1914), the decree approved measures to combat the abuse of substances such as opium, morphine, its derivatives and cocaine. Such actions were established during the International Opium Conference in 1911 in The Hague, Netherlands. The rule took the opportunity to highlight the importance of implementing resolutions to prevent the growing abuse of these substances in the national territory.

The following year, the former President of the Republic, Wenceslau Braz, sanctioned Decree No. 11,481, of February 10, 1915, which, in its wording, stated that "Decrees that the same Convention and its respective Closing Protocol attached to this Decree, be executed and complied with as fully as they are contained therein." (BRAZIL, 1915). In this way, the then president linked the observance of the measures contained in the 1911 Convention, giving the text of the decree more normative force.

Until 1940, when the Penal Code in force was enacted, with Decree-Law No. 2,848, of December 7, 1940, Brazil had at least seven other main norms that addressed the issue of drugs. Among them, two stand out: Decree No. 20,930, of January 11, 1932 and Decree No. 780, of April 28, 1936.

While Decree No. 20,930/1932 disciplined that it "supervises the use and trade of narcotic toxic substances, regulates their entry into the country in accordance with the request of the Permanent Central Committee on Opium of the League of Nations, and establishes penalties", in addition to instituting the first measures of compulsory internment (BRASIL, 1932), Decree No. 780/1936 established the National Commission for the

Revista ARACÊ
ISSN: 2358-2472

Inspection of Narcotics, in which the attribution was mainly to draft a draft unified code that contained all the laws and decrees issued on the subject until then (BRASIL, 1936). One of the innovations of Decree No. 20,930/1932, especially with regard to public policies, was the prohibition of users of narcotic substances.

In chapter IV of Decree No. 20,930 (BRASIL, 1932), it is possible to extract the following wording:

> **Article 44. Drug addiction or habitual intoxication by narcotic substances is considered a disease of compulsory notification, made on a reserved basis, to the local health authority.**
>
> **Article 45. Drug addicts and those habitually intoxicated by narcotics and alcoholic beverages or, in general, intoxicants, are subject to mandatory or optional hospitalization for a fixed period or not.**
> Paragraph 1 - Compulsory internment shall take place when the need for adequate treatment of the sick person is proven, or for the sake of the interests of public order, always at the request of the representative of the Public Prosecutor's Office, who, in the Federal District, shall be the curator of orphans, and by virtue of a judicial decision.
> Paragraph 2 - Compulsory internment shall also take place when the judge orders it ex officio in cases:
> a) conviction for habitual drunkenness;
> b) of dismissal or acquittal, by virtue of the right of article 27, § 4, of the Penal Code, on the grounds of illness or mental state resulting from the abuse of any of the substances listed in article 1 and herein.
> Paragraph 3 - Optional hospitalization shall take place when the convenience of hospital treatment is proven, and at the request of the interested party, his/her legal representatives, spouse or relative up to and including the fourth collateral degree.
> Paragraph 4 - In cases of notorious or evident urgency, the police may carry out a prior and immediate hospitalization, based on the examination report, even if brief, carried out by two doctors of full repute, and then the judicial process shall be initiated, in accordance with paragraph 1 of this article, within a maximum period of five days, counted from the hospitalization.
> Paragraph 5 - Prior hospitalization may also be ordered by the competent judge, when the majority of the experts appointed by him deem it necessary for medico-legal observation.
> Paragraph 6 - Internment shall be carried out in some of the establishments indicated in Legislative Decree No. 4,294, of July 6, 1921, or in an appropriate public establishment, and, failing that, in any public or private hospital establishment subject to official inspection.
> (emphasis added)

With the advent of the current Penal Code (Decree-Law No. 2,848, of December 7, 1940), the Brazilian criminal legislation on drugs remained without major modifications until 1964.

With the Civil-Military Coup of 1964 (DE CARVALHO, 2021), the conditions were created for the implementation of new norms that confirmed Brazil's definitive entry into the international drug scene, in what is popularly known as the "War on Drugs". That same year, the Federal Government, through Decree No. 54,216, of August 27, 1964,

Revista ARACÊ
ISSN: 2358-2472

promulgated the Single Convention on Narcotic Drugs, signed in New York in 1961 (BRASIL, 1964). In this context, the first legislative change, which came entirely from an internal Brazilian political movement, related to drugs, occurred four years after the implementation of the aforementioned Convention, through Decree-Law No. 385, of December 26, 1968 (BRASIL, 1968).

Published thirteen days after the granting of Institutional Act No. 5, Decree-Law No. 385/1968 modified article 281 of the Penal Code of 1940, equating the conduct of the user to that of the trafficker, among other more rigorous aspects. It is important to emphasize that this equivalence only stopped being applied with objective criteria recently, after the decision of the STF, in Extraordinary Appeal No. 635,659, with general repercussion (Topic 506), which left a quantitative criterion of 40g to differentiate a Cannabis user from a dealer (BRASIL, 2024).[4]

This normative scenario remained practically statistical until the enactment of Law No. 6,368, of October 21, 1976, known as the Narcotics Law. From the temporal and criminal aspect, this law was in force until October 9, 2006, when the current Drug Law came into force (BRASIL, 2006). It is important to recognize that, by disciplining the conduct of the user, in article 16, in a different way from the conduct of the trafficker, article 12, the old Drug Law (Law No. 6,368/1976) represented an advance for the time, although in a practical way, when analyzing the repressive context impregnated by the ideology of national security, the results were different from what was expected and prohibitionism continued to reign as the main public policy.

PUBLIC ANTI-DRUG POLICIES IN BRAZIL WITH THE PROMULGATION OF THE 1988 CONSTITUTION

> We, representatives of the Brazilian people, gathered in the National Constituent Assembly to **establish a Democratic State, destined to ensure the exercise of social and individual rights, freedom, security, well-being, development, equality and justice as supreme values of a fraternal, pluralistic and unprejudiced** society, founded on social harmony and committed, in the internal and international order, to the peaceful solution of controversies, we promulgate, under the protection of God, the following CONSTITUTION OF THE FEDERATIVE REPUBLIC OF BRAZIL.
> (emphasis added)

[4] For more on this debate, see: RIBEIRO, Raisa Duarte da Silva; PINTO, Sebastião Vinícius Gomes. Curbing punitivism? The impact of RE No. 635.659 on Brazilian drug policy. 2024. In press.

Revista ARACÊ
ISSN: 2358-2472

The excerpt exposed above was extracted from the preamble of the Constitution of the Federative Republic of Brazil, promulgated on October 5, 1988 (BRASIL, 1988). The passage exposed, although short and objective, stands as a guiding pillar, both of the constitutional text itself and of the legal-administrative functioning of the Brazilian State. In this same reasoning, the jurist Luis Roberto Barroso, argues that a constitution is a system that limits the power of the State and ensures the supremacy of the law, reflecting fundamental values such as the supremacy of the power of the people, human dignity and basic rights (BARROSO, 2018). Therefore, a fundamental norm must simultaneously represent the values and desires of the people, as well as guide the public agent in his decision-making, including with regard to public policies on drugs and the guarantee of respect for fundamental rights, especially the preservation of the dignity of the human person.

In the last three and a half decades, since the promulgation of the 1988 Constitution, there has been a significant change in the scenario, both national and international, in the way civil society, the State and supranational organizations (such as the UN and the WHO) face the theme of current work. In this period of time, the State has adopted a greater commitment to the guarantee of Human Rights, and this has also been verified in the scope of public welfare policies related to drugs.

Based on this phenomenon of transformation, it should be noted that the German jurist and former judge of the German Constitutional Court, Konrad Hesse, defends, in the work "The Normative Force of the Constitution" (Die normative Kraft der Verfassung), a theory that appeases the theories defended decades earlier by Ferdinand Lassalle and Hans Kelsen (VIEIRA, 1998). K. Hesse reiterates that constitutions are not only a reflection of the existing conditions of power, but have their own normative force that can shape and order reality, both political and social. He argues that constitutions have a standardization and binding that goes beyond factual conditions, capable of influencing and shaping reality, in addition to introducing the concept of "will to the Constitution" (Wille zur Verfassung). This concept is nothing more than the idea that for a constitution to be effective, there must be a collective will to follow and carry out its norms. The concept of normative force is present in the 1988 Constitution, as well as guided the original constituent when establishing the duties of the Brazilian State.

With the promulgation of the Constitution of the Federative Republic of Brazil in 1988 and the resumption of the Brazilian Democratic State, aimed at ensuring the exercise of

Revista ARACÊ
ISSN: 2358-2472

social and individual rights, freedom, security, well-being, development, equality and justice as supreme national values, a new logic for the functioning of the state machine emerged in Brazil: Public health has erected it as a fundamental right.

Until the promulgation of the 1988 Constitution, public health was not a universal right guaranteed by the Brazilian state, in addition it was limited exclusively to medical and hospital care. Before 1988, only those citizens who contributed to social security received care in the public health network, which was centralized and the exclusive responsibility of the Union. As a result, those who did not contribute, nor were able to pay for their own treatments in a private way, had to depend solely on improvements or philanthropy (BRASIL, 2020). Currently, there is already an awareness that this restriction on access, in addition to being inefficient, also negatively impacts the implementation of an effective public policy against drugs.

The 1988 Constitution brought with it a significant change in the State's worldview of public policies linked to health. Also in Article 6 of the Constitution, the original constituent has already stated that health is part of the list of basic social rights enshrined in the Fundamental Norm. This stiffening, as will be pointed out later, was essential for the formulation and implementation of new public policies linked to drugs, this time, less focused on prohibitionism (linked to public security), and more directed to harm reduction related to public health. In verbis (BRASIL, 1988):

> **Article 6 - Education**, **health**, food, work, housing, transportation, leisure, security, social security, protection of maternity and childhood, assistance to the destitute, in accordance with this Constitution, are social rights.
> [...]
> **Article 23. It is the common competence of the Union, the States, the Federal District and the Municipalities:**
> I - to ensure the safeguarding of the Constitution, laws and democratic institutions and to conserve public property;
> **II - taking care of public health and assistance, the protection and guarantee of people with disabilities;**
> [...]
> (emphasis added)

In addition, such importance in the area of health is also ratified in the constitutional text when it is analyzed and highlighted that the original constituent selected an entire section only to stiffen, in the form of a constitutional norm, health-related policies. Section II, Chapter II, Title VIII of the CRFB/1988, postulates, in its 5 articles, that (BRASIL, 1988):

> **Article 196. Health is a right of all and a duty of the State, guaranteed through social and economic policies aimed at reducing the risk of disease and other**

Revista ARACÊ
ISSN: 2358-2472

> **health problems and universal and equal access to actions and services for its promotion, protection and recovery.**
> Article 197. Health actions and services are of public relevance, and it is up to the Government to provide, under the terms of the law, for their regulation, inspection and control, and their execution must be done directly or through third parties and also by an individual or legal entity under private law.
> Paragraph 1. The Unified Health System shall be financed, under the terms of article 195, with resources from the social security budget, the Union, the States, the Federal District and the Municipalities, in addition to other sources.
> [...]
> **Article 200. The Unified Health System is responsible, in addition to other attributions, under the terms of the law:**
> I - to control and supervise procedures, products and substances of interest to health and to participate in the production of medicines, equipment, immunobiologicals, blood products and other inputs;
> II - to carry out sanitary and epidemiological surveillance actions, as well as those of occupational health;
> III - to order the training of human resources in the health area;
> IV - to participate in the formulation of the policy and the execution of basic sanitation actions;
> V - to increase, in its area of activity, scientific and technological development and innovation;
> VI – to inspect and inspect food, including the control of its nutritional content, as well as beverages and water for human consumption;
> **VII – to participate in the control and inspection of the production, transportation, storage and use of psychoactive, toxic and radioactive substances and products;**
> VIII - to collaborate in the protection of the environment, including the work environment.
> (emphasis added)

Based on the aforementioned excerpt, it is evident that both article 196 and item VII of article 200 of the CRFB/1988 brought to the light of Public Law the urgent need to face the issue related to health and drugs as an aspect not only of government, but as an active state public policy, also focused on the health area in conjunction with the already existing public security policies. Article 197, also cited above, is the normative basis that gave rise to Law No. 8,080/1990, the law that established the Unified Health System, SUS, (BRASIL, 2020).

Enacted on September 19, 1990 and published in the Official Gazette of the Union the following day (BRASIL, 1990), Law No. 8,080, of September 19, 1990 is considered a landmark, not only in Brazil, but also in the world, of legislation that establishes the right to health as a central pillar of the State's duties to society. Consequently, since public policies linked to the fight against drugs are intrinsically linked to the performance of the Unified Health System, these actions also become part of this essential core of state duties. The first articles of the law that gave rise to the SUS list the following primary points of attention:

Revista ARACÊ
ISSN: 2358-2472

> **Art. 2 Health is a fundamental right of the human being, and the State must provide the indispensable conditions for its full exercise.**
> Paragraph 1 - The duty of the State to guarantee health consists in the formulation and execution of economic and social policies aimed at reducing the risks of diseases and other health problems and in establishing conditions that ensure universal and equal access to actions and services for their promotion, protection and recovery.
> Paragraph 2 - The duty of the State does not exclude that of individuals, families, companies and society.
> Art. 3 [...]
> **Sole Paragraph. Actions that, by virtue of the provisions of the previous article, are intended to guarantee people and the community conditions of physical, mental and social well-being also concern health.**
> **Art. 4 The set of health actions and services provided by federal, state and municipal public bodies and institutions, of the direct and indirect Administration and of the foundations maintained by the Government, constitutes the Unified Health System (SUS).**
> Paragraph 1 - The provisions of this article include federal, state and municipal public institutions for quality control, research and production of inputs, medicines, including blood and blood products, and health equipment.
> Paragraph 2 - The private sector may participate in the Unified Health System (SUS), on a complementary basis.
> Art. 5 The objectives of the Unified Health System SUS are:
> I – the identification and dissemination of conditioning and determining factors of health;
> **II – the formulation of a health policy aimed at promoting, in the economic and social fields, compliance with the provisions of paragraph 1 of article 2 of this law;**
> **III – assistance to people through health promotion, protection and recovery actions, with the integrated implementation of care actions and preventive activities.**
> **Art. 6 The following are also included in the field of action of the Unified Health System (SUS):**
> I – the execution of actions:
> [...]
> II – participation in the formulation of the policy and in the execution of basic sanitation actions;
> III – the organization of the training of human resources in the health area;
> IV – nutritional surveillance and dietary guidance;
> V – collaboration in the protection of the environment, including the protection of work;
> VI – the formulation of the policy for medicines, equipment, immunobiologicals and other inputs of interest to health and the participation in their production;
> VII – the control and inspection of services, products and substances of interest to health;
> VIII – the inspection and inspection of food, water and beverages for human consumption;
> **IX – participation in the control and inspection of the production, transportation, storage and use of psychoactive, toxic and radioactive substances and products;**
> [...]
> (emphasis added)

On the other hand, at the same time that the State also began to have the moral and legal obligation to maintain prevention and assistance programs for drug users, the CRFB/1988 Constitution of 1988 determined that drug and narcotics trafficking would be classified as a non-bailable crime. In addition, the CRFB/1988 established the possibility of

Revista ARACÊ
ISSN: 2358-2472

confiscating the assets of traffickers and authorized the expropriation of land used for the illegal cultivation of psychotropic plants.

In short, with the advent of the current Brazilian Constitution, together with the creation of the Unified Health System, the SUS, from Law No. 8,080/1990, a new way of looking at the issue of drugs came into force in Brazil: in addition to the punitive model, the constitutional text began to require that drug policy also be concerned with ensuring the well-being of the individual and society, with policies of care and treatment for users.

As will be presented in due course, public policies began to undergo a slight and gradual transformation, moving solely from the containment of trafficking and the user's contact with drugs at any cost, to also encompass the valorization of life, the containment of damage, the network and multidisciplinary approach, rehabilitation and reintegration of the individual into society.

CURRENT PUBLIC DRUG POLICIES

The current scenario of public policies on drugs began to be shaped in Brazil during the first half of the 1990s. During this first moment, more specifically during the government of former President Fernando Henrique Cardoso, the Federal Government promoted a major reform that replaced the then existing National System of Prevention, Inspection and Repression, linked to the Ministry of Justice, with the current National Anti-Drug System, the SISNAD (GARCIA; FAITHFUL; ABREU, 2008). This change was a primordial foundation for the construction of the tools available today in the mission to combat drugs. This is because this change modified the direction of public policies, moving from a vision limited to prevention, inspection and repression and, consequently, more biased and centered on the binomial formed from the junction between abstinence and repression (LAGO; DE ALMEIDA, 2017), getting closer and closer to the current scenario.

In 1991, the Ministry of Health established the Alcoholism and Chemical Dependency Care Service, as part of the services offered by the Mental Health Coordination of the Ministry of Health, CORSAM (SCHECHTMAN; SÁVIO DO N. ALVES; CORREIA E SILVA, 2024). This service focused on prevention, assistance and treatment related to the use of drugs, whether licit or illicit. Its objective was to reduce the growing demand, promoting a change in the population's perception of the subject, changing the care model and implementing actions to support and expand the network of mental health services,

Revista ARACÊ
ISSN: 2358-2472

especially alternative services to psychiatric hospitalization (GARCIA; FAITHFUL; ABREU, 2008).

In this same period, along with the creation of SISNAD, the National Anti-Drug Secretariat (SENAD) was created (BRASIL, 1993), the body responsible for coordinating and articulating national anti-drug public policies. In a complementary way, a few years later, the Federal Council on Narcotics, CONFEN, created approximately a decade earlier through Decree No. 85,110/1980 (BRASIL, 1980), was replaced by the National Anti-Drug Council, CONAD, based on Provisional Measure 1689-6 (BRASIL, 1998).

It is also worth noting that, in that same decade, a new logic of psychotherapeutic valorization came into force. Psychiatric care became preventive and was included in the organizational and strategic structure of public health services (GARCIA; FAITHFUL; ABREU, 2008). With this change that occurred in the mid-1990s, Brazil began to have, until the turn of the millennium, the following organization i) the National System of Public Drug Policies - SISNAD, responsible for integrating the entire support and combat network, together with the Unified Health System, SUS, and the Unified Social Assistance System, the SUAS; ii) the National Council on Drug Policies - CONAD, the highest body responsible for defining and approving national anti-drug policies; and, finally, iii) the National Secretariat for Drug Policies and Asset Management - SENAD, responsible for both the coordination and articulation of national anti-drug public policies, as well as for the management of assets seized due to drug trafficking, in the prevention and social reintegration of drug users and dependents, in addition to contributing to the reduction of drug supply.

However, it is necessary to point out that the national scenario has not remained inert and has undergone some changes since the turn of the millennium. Currently, the national network of public policies is composed of five main foundations: in addition to SISNAD, CONAD and SENAD, we also have the National Anti-Drug Policy (PNAD) and the National Plan for Drug Policies (PLANAD), as will be discussed below.

The National System of Public Drug Policies - SISNAD

The National System of Public Policies on Drugs - SISNAD was established by Law No. 11,343, of August 23, 2006 (BRASIL, 2006), and was regulated by Decree No. 5,912, of September 27, 2006 (BRASIL, 2006). The main purpose of SISNAD, as pointed out in the text of the rule published in the Official Gazette of the Union in 2006, is to articulate,

Revista ARACÊ
ISSN: 2358-2472

integrate, organize and coordinate activities related to the prevention of drug misuse, the care and social reintegration of users and dependents, and the repression of unauthorized production and illicit drug trafficking.

It is a system that is based on principles such as respect for fundamental rights, the promotion of ethical and cultural values, and shared responsibility between the State and society. In addition, SISNAD promotes the integration of national and international strategies and cooperation between various agencies and entities. However, it is important to point out the existence of critical aspects in the SISNAD approach. A significant criticism is the proposal of involuntary hospitalization of drug users, which is considered a segregationist and ineffective measure to treat chemical dependence (FRANCO, 2013).

Although Brazil has demonstrated, at various times, its adherence to fundamental principles and guarantees, the national legislation on drugs, especially the one that instituted SISNAD, has been constantly hardening, with the imposition of more severe penalties and the restrictive interpretation of benefits. A clear example of this trend is article 33 of the Drugs Law, which significantly expanded the list of penalized conducts, equating possession and transportation with manufacturing and trafficking. In addition, the minimum sentence for all these conducts was raised to 5 years, demonstrating an even greater hardening of punishments (RIBEIRO, PINTO, 2024).

Another crucial point of this prohibitionist policy is article 28, paragraph 2, which gives the judge, in most cases, broad powers to define whether a person is a user or a trafficker. In practice, this discretion has allowed the police authority, in many cases, to already determine the typification of the crime while still in the investigative phase, directly influencing the judicial decision (RIBEIRO, PINTO, 2024).

The National Secretariat for Drug Policies and Asset Management – SENAD

The National Secretariat for Drug Policy and Asset Management - SENAD is an essential body for tackling the drug problem in Brazil. She acts as coordinator of the actions of the various agencies involved, the secretariat contributes to the reduction of drug consumption, the fight against trafficking and the protection of public health. In addition, it also works at various levels, from preventing drug use to combating trafficking and recovering assets from organized crime.

Originally provided for in article 1 of Law No. 8,764, of December 20, 1993, SENAD also collaborates with other public security agencies in the fight against drug trafficking,

Revista ARACÊ
ISSN: 2358-2472

seeking to dismantle criminal organizations and seize illicit assets, as well as acts in the management of assets seized in anti-trafficking operations, such as real estate, vehicles and money (BRASIL, 1993). Currently, this Secretariat is linked to the Ministry of Justice and Public Security - MJSP and is regulated by Decree No. 11,480, of April 6, 2023 (BRASIL, 2023).

In 2019, when he took over as head of the National Secretariat for Drug Policies and Asset Management (SENAD), Luiz Roberto Beggiora emphasized the need for a clearer definition between drug trafficking and consumption (PIRES, 2019). He argued that this distinction would help guide the work of the police and prevent wrongful arrests. Beggiora also highlighted the importance of public policies that differentiate users from dealers, promoting a fairer and more effective approach to the fight against drugs.

The National Council on Drug Policies - CONAD

In addition to the structure of SENAD, the National Council on Drug Policies (CONAD) was created. Originally provided for by article 2 of Provisional Measure 1689-6 (BRASIL, 1998) and later made official by Law No. 11,343, of August 23, 2006 (BRASIL, 2006), CONAD is responsible for coordinating, as a permanent top body, the National System of Public Policies on Drugs (SISNAD), acting in the formulation, evaluation and proposal of national policies on drugs.

Among its competencies are the discussion and approval of the National Plan on Drug Policies, the monitoring of national guidelines on drug policies, international cooperation actions, articulation with state and municipal councils, and the monitoring of legislative proposals on the subject.

CONAD had its structure modified in 2023, based on Decree No. 11,480, of April 6, 2023 (BRASIL, 2023), which brought some important innovations to SISNAD. Although there has not been a complete revolution in the guidelines, this decree presents adjustments and updates that aim to strengthen CONAD's performance and deepen public policies on drugs in Brazil.

However, it is essential to highlight that both the creation and the performance of these two institutional bodies were not free from criticism. According to researchers in the area, CONAD, created to coordinate the National Anti-Drug Policy, faces challenges due to political and institutional conflicts that hinder the implementation of effective proposals. SENAD is also criticized for its predominantly prohibitionist approach, which focuses on the

Revista ARACÊ
ISSN: 2358-2472

repression and criminalization of drug users, instead of adopting more humanitarian and public health approaches (GARCIA; FAITHFUL; ABREU, 2008).

In addition, the researchers point out that the creation of SENAD expressed a political strategy of the Brazilian government to show the international community a stance of combating drugs as a government priority, but not necessarily a basic priority of state policy. Furthermore, conflicts of a political and institutional nature made it impossible to establish proposals that, in fact, responded to the dimension of the drug phenomenon in Brazil (GARCIA; FAITHFUL; ABREU, 2008).

A National Anti-Drug Policy - PNAD

The National Anti-Drug Policy - PNAD is an act of governance that synthesizes Brazil's drug policy. Established for the first time in 2002, through Decree No. 4,345/2002, the PNAD consolidated the guidelines for reducing the supply and demand of drugs in the country (BRASIL, 2002). In 2005, the policy was updated by CONAD resolution No. 3/GSIPR/CH/CONAD, of October 27, 2005, maintaining, however, the original decree in force (BRASIL, 2005). In 2019, Decree No. 9,761, of April 11, 2019, promoted, once again, adjustments in the governance of the National Drug Policy, maintaining the PNAD as a central reference (BRASIL, 2019). Finally, in 2022, Resolution CONAD/SENAD/MJSP no. 8, of September 27, 2022, approved the National Plan for Drug Policies, a guideline maintained to this day, which complements and updates the PNAD guidelines (BRASIL, 2022).

According to the regulatory legislation, the guidelines of the National Drug Policy - PNAD are: i) reduction of supply and demand based on the implementation of actions to reduce both the supply and demand of drugs; ii) prevention and treatment, adopting measures to prevent the misuse of drugs and treatment for addicts; iii) repression of trafficking based on efforts to combat illicit drug trafficking; and iv) governance and coordination with support in the structuring of bodies and committees to coordinate and supervise drug policy in Brazil.

However, there is no lack of criticism regarding the importance given to prohibitionism in the context of the PNAD. Throughout the article "Drug policies in Brazil: the harm reduction strategy", the authors Letícia Vier Machado and Maria Lúcia Boarini discuss the evolution of drug policies in Brazil, focusing on the harm reduction strategy, also highlighting the importance of this approach, especially in the context of the AIDS epidemic

Revista ARACÊ
ISSN: 2358-2472

in the 80s, and how it is opposed to the predominant prohibitionist policies (MACHADO; BOARINI, 2013). The authors argue that the harm reduction strategy is essential to face the contemporary challenges related to the use of licit and illicit drugs, promoting intersectoral interventions and combating prejudice against drug users.

In addition, they also highlight the need to diversify harm reduction actions due to the growing production of licit and illicit drugs in the country. Both also add that the PNAD, instituted in 2002, has as its main objective the prevention, treatment, recovery and social reintegration of drug users, in addition to the repression of trafficking. However, the authors criticize the predominance of the prohibitionist model, which focuses on the repression and criminalization of users, to the detriment of more humanitarian and public health approaches, such as harm reduction (MACHADO; BOARINI, 2013).

The National Plan for Drug Policies - PLANAD

The National Plan for Drug Policies (PLANAD) is the name given to the strategic and tactical plan prepared by the Brazilian Federal Government, with the objective of coordinating and guiding the actions of various agencies and entities (public and private) in the fight against drug use and trafficking in the country. PLANAD serves as a kind of "guide" - or at least should serve - for public policies on drugs in Brazil. It defines goals, strategies and actions to be implemented by different levels of government (Union, States, Federal District and Municipalities) to face the drug problem in a more effective and integrated way.

The current PLANAD was created in 2022, during the term of the government of Jair Bolsonaro, known for the hardening of punitive penal policies. Established to guide public policies on drugs during the 5-year period (from 2022 to 2027), the current PLANAD is structured in five central axes: i) prevention; ii) care, treatment and social reintegration; iii) reduction in supply; iv) research and evaluation and v) governance, management and integration (PLANAD, 2022).

These axes encompass the ten strategic objectives that must be followed by the Public Administration and civil society; They are: i) to prevent, raise awareness and protect society from the social, economic and public health losses represented by the use and dependence on licit and illicit drugs; ii) to care, treat and reintegrate socially, offering adequate care, treatment and promoting the social reintegration of drug users; iii) reduce the supply and combat trafficking and unauthorized production of drugs; iv) to manage, govern and integrate, through the improvement of governance and the integration of drug

Revista ARACÊ
ISSN: 2358-2472

policies; v) to research and evaluate to improve drug policy; vi) to train health, education and security professionals to deal with drug-related issues; vii) to disseminate projects and good practices of scientific, technological and managerial innovation; viii) to strengthen the international articulation for the exchange of information and coordination of actions; ix) to promote transparency and accountability of drug policies; and x) to ensure the harmony of drug policy with other public policies, such as mental health and public safety.

However, PLANAD has been, since its publication, the target of much criticism (BAHIA, 2021). A first criticism is related to its preparation and writing: the document lacks clarity and objectivity, with the excessive use of technical and legal terms that make it difficult for the general population to understand.

A second recurring criticism of PLANAD is the excessive emphasis on the repression of drug trafficking, to the detriment of prevention and harm reduction policies. This approach, stemming from a strong prohibitionist history of the Brazilian government, contributes to the criminalization of users and does not solve the problem of chemical dependency. In addition, many point to the lack of focus and well-defined priorities, with the plan addressing a wide range of topics in a superficial way.

A third recurring criticism concerns the disconnection of PLANAD with the specific realities of society, not taking into account the particularities of each region and the specific needs of drug users. Another point of criticism concerns the lack of participation of civil society in the elaboration of PLANAD, which is considered insufficient, which tends to lead to the creation of policies that may not meet the demands of the various population segments of Brazilian society (BAHIA, 2021).

PUNITIVISM vs. DECREASE IN DRUG CONSUMPTION AND SALE

According to information provided by the Ministry of Justice and Public Security, formerly the Ministry of Justice, the prison population imprisoned for crimes related to drug possession and trafficking more than tripled between 2009 and 2024. In 2009, based on the Integrated Penitentiary Information System (InfoPen), there were 97,363 prisoners serving time in Brazil for crimes listed in Law No. 11,343/2006 (BRASIL, 2009), of which 71,598 were for drug trafficking at the national level and 5,773 for international drug trafficking.

Law No. 11,343/2006 regulates drug trafficking in its article 33, caput and paragraph 1, and international drug trafficking, in its article 40, I. Before the advent of this rule, these

Revista ARACÊ
ISSN: 2358-2472

crimes were provided for, respectively, by articles 12 and 18 of Law No. 6,368, of October 21, 1976.

The crime of national drug trafficking is characterized by importing or exporting, shipping, preparing, producing, manufacturing, acquiring, selling or exposing for sale, offering, having in storage, transporting, bringing along, keeping, prescribing, administering, delivering for consumption or supplying drugs, even if free of charge, without authorization or in disagreement with legal determination (art. 33, caput of Law No. 11,343/2006), similarly punishable is anyone who supplies raw material, input or chemical product (art. 33, §1, I), sows, cultivates or harvests for the preparation of drugs, uses a place or asset of any nature intended for drug trafficking (III) and sells or delivers drugs or raw material, input or chemical product intended for the preparation of drugs (IV).

International drug trafficking, in turn, is characterized when "the nature, the origin of the substance or product seized and the circumstances of the fact evidence the transnationality of the crime" (article 40, I) and is cause for an increase in the penalty from 1/6 to 2/3.

The incarceration resulting from the crime of drug trafficking (internal and international) is striking. In the first half of 2024, when the last Criminal Information Report – RELIPEN, prepared by the National Secretariat for Penal Policies – SENAPPEN, was made available, it became possible to identify that Brazil currently has 205,741 people incarcerated as a result of crimes listed in the Anti-Drug Law of 2006 (BRASIL, 2024). Within this group, which corresponds to almost 0.1% of the total Brazilian population, considering the most recent data from the IBGE (CABRAL, 2023), 199,327 are imprisoned for drug trafficking, while 6,414 were imprisoned for International Drug Trafficking.

In statistical terms, this means that the prison population resulting from international drug trafficking grew by 11.1% in this period, while that resulting from national drug trafficking increased by approximately 178.3%. Based on these data, we can see that the population in a situation of deprivation of liberty typified as national drug trafficking suffered an increase 16 (sixteen) times greater than the population typified in the crime of International Trafficking (CABRAL, 2023).

On the other hand, while the prohibitionist public anti-drug policies generated an increase in incarceration, this same effect cannot be said in relation to the reduction in the number of deaths related to the consumption of alcohol and other drugs. According to the II Brazilian Report on Drugs, between 2008 (two years after the entry into force of the current

Revista ARACÊ
ISSN: 2358-2472

Anti-Drug Law) and 2015, the number of deaths varied slightly, increasing in some years and decreasing in others (FERRI; MACHADO, 2021).

Based on these data, the result is evident: Law No. 11,343 was not enough to preserve human life. In verbis (FERRI; MACHADO, 2021): "Regarding the number of deaths, it was observed that the registration of the absolute number of deaths due to mental and behavioral disorders due to substance use, in general, did not change significantly between 2008 and 2015."

On the other hand, while prohibitionism demonstrates its inefficiency in preserving human life, see the information brought above, the policies of supply reduction and harm reduction have presented opposite results. Before presenting the data regarding the results brought by this second line of approach to drugs, it is necessary to conceptualize what "harm reduction" is: "Harm reduction is a health policy that proposes to reduce the biological, social and economic damage caused by drug use, based on respect for the individual and his or her right to consume drugs." (ANDRADE; FRIEDMAN, 2006).

Due to the lack of concrete data related to the specific Brazilian case, it is not possible to state with certainty the results of harm reduction in Brazil, especially considering that it is a recent approach, little disseminated and that still suffers considerable resistance (FONSECA, 2005).

On the other hand, the data available from the experience developed in the United Kingdom from the 1990s onwards, with the explosion of the HIV epidemic, demonstrate the greater effectiveness of supply reduction and harm reduction policies compared to exclusively prohibitionist policies. In 2002, an in-depth study by the UK government (The Third Report of the Home Affairs Committee) on national drug policies concluded that there was a need to strengthen programmes that were already working well, such as those aimed at reducing the harm caused by drug use. The UK report also emphasised the importance of reducing the number of drug-related deaths and providing more accurate information on the risks of each substance. The authors of the study recognized that all drugs can be dangerous and argued that the government has a duty to inform the population about these dangers (FONSECA, 2005).

CONCLUSION

In short, the history of the relationship between drugs and humanity is intricate and millennial. Prohibition, the dominant strategy in the fight against drugs due to the violence

Revista ARACÊ
ISSN: 2358-2472

linked to it as the main consequence, has not been shown to be effective in reducing either consumption or associated crime (UNITED NATIONS OFFICE ON DRUGS AND CRIME - UNODC, 2024). It is imperative, therefore, to adopt a more holistic approach, which combines prevention, treatment and harm reduction, recognizing the complexity of the problem and the need for public policies based on scientific evidence.

The historical analysis of anti-drug policies in Brazil demonstrates the influence of international treaties and the creation of inspection bodies aimed at stiffening the punitive policy of combating drugs. A brief historical analysis shows us that this prohibitionist basis has remained unchanged, resulting in an overcrowded penal system and the criminalization of users, see the information listed throughout the previous topic.

Currently, in the face of the challenges imposed by drug trafficking and the new psychoactive substances, there is a need to rethink public policies. The "War on Drugs", established in Brazil from the 1960s onwards, corroborated the creation of an overcrowded penal system, the violation of human rights and the proliferation of organized crime, as pointed out by the Liaison and Partnership Office in Brazil of the United Nations Office on Drugs and Crime (UNITED NATIONS OFFICE ON DRUGS AND CRIME - UNODC, 2024). The equivalence between user and dealer, in an arbitrary way, contributed to the stigmatization and criminalization of segments of the population. Despite recent legislative changes, the prohibitionist model still prevails, requiring a profound review of public policies. It is essential to adopt a more humanitarian and effective approach, which prioritizes public health, harm reduction, and the social reintegration of users.

Thus, from the 1990s onwards, Brazilian public anti-drug policies underwent an important transformation, with the proposal of a more complex and articulated system. The valorization of prevention, treatment and harm reduction represented an advance in relation to the exclusively repressive and prohibitionist model that existed until then.

However, the construction of this system is still ongoing, and challenges such as stigmatization, lack of resources, and new psychoactive substances require constant adaptation of public policies. Although the last decades have witnessed a significant advance in the debate and formulation of public policies on drugs in Brazil, it is undeniable that there is still a long way to go.

The complexity of the phenomenon, marked by social, economic and public health aspects, requires a multidisciplinary look and coordinated actions at various levels of government. Despite the efforts made, the effectiveness of the policies implemented is still

Revista ARACÊ
ISSN: 2358-2472

limited, requiring constant review and the adoption of new strategies that contemplate the particularities of the Brazilian context.

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Revista ARACÊ
ISSN: 2358-2472

REFERENCES

1. Almeida, Q. B., Paula, D. G. de, & Queiroz, P. C. de. (2024). O panorama do estado do Rio de Janeiro: As políticas públicas de saúde e as redes de apoio para os usuários de álcool e outras drogas. In R. D. Ribeiro, D. G. de Paula, & I. Catane (Org.), Ciclo de debates OGIDERJ: diálogos sobre impactos do consumo, sistemas de saúde e políticas públicas para usuários de álcool e outras drogas (pp. 29-56). Rio de Janeiro: PodEditora.

2. Alves, V. S. (2009). Modelos de atenção à saúde de usuários de álcool e outras drogas: Discursos políticos, saberes e práticas. Cadernos de Saúde Pública, 11, 2309-2329. https://doi.org/10.1590/S0102-311X2009001100002. Disponível em: https://www.scielo.br/j/csp/a/c5srmqDwSkZCmzCcqrmtwzM/?format=pdf&lang=pt. Acesso em: 4 de julho de 2024.

3. Andrade, T. M. de. (2011). Reflexões sobre políticas de drogas no Brasil. Ciência & Saúde Coletiva, 16, 4665-4674. Disponível em: https://www.scielosp.org/pdf/csc/2011.v16n12/4665-4674/pt. Acesso em: 27 de agosto de 2024.

4. Andrade, T. M. de, & Friedman, S. (2006). Princípios e práticas de redução de danos: Interfaces e extensão a outros campos da intervenção e do saber. In D. X. da Silveira & F. G. Moreira (Orgs.), Panorama atual de drogas e dependências (pp. 395-400). São Paulo: Atheneu.

5. Bahia, Secretaria de Estado de Assistência e Desenvolvimento Social. (2021). Bahia critica minuta do Plano Nacional de Políticas sobre Drogas sem participação da sociedade civil. Salvador, BA: Secretaria de Estado de Assistência e Desenvolvimento Social. Disponível em: https://www.ba.gov.br/social/noticia/2024-05/7318/bahia-critica-minuta-do-plano-nacional-de-politicas-sobre-drogas-sem. Acesso em: 28 de agosto de 2024.

6. Barroso, L. R. (2018). Curso de direito constitucional contemporâneo: Os conceitos fundamentais e a construção do novo modelo (7ª ed.). São Paulo: Saraiva Educação.

7. Brasil. Casa Civil. (2020). Saúde Pública. Brasília, DF: 2020. Disponível em: https://www.gov.br/casacivil/pt-br/assuntos/noticias/2020/setembro/sus-completa-30-anos-da-criacao. Acesso em: 26 de agosto de 2024.

8. Brasil. Conselho Nacional Antidrogas. (2005). Resolução n.º 3/GSIPR/CH/CONAD, de 27 de outubro de 2005. Aprova a Política Nacional sobre Drogas. Diário Oficial da União, seção 1, Brasília, DF, ano 142, p. 9-12, 28 de outubro de 2005. Acesso em: 28 de agosto de 2024.

9. Brasil. Conselho Nacional Antidrogas. (2022). Resolução CONAD/SENAD/MJSP n.º 8, de 27 de setembro de 2022. Aprova o Plano Nacional de Políticas sobre Drogas 2022-2027. Diário Oficial da União, seção 1, Brasília, DF, ano 159, p. 53, 4 de agosto de 2022. Acesso em: 28 de agosto de 2024.

Revista ARACÊ
ISSN: 2358-2472

10. Brasil. [Constituição (1891)]. Constituição da República dos Estados Unidos do Brasil. Rio de Janeiro, DF: Presidência da República. Disponível em: https://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao91.htm. Acesso em: 3 de julho de 2024.

11. Brasil. [Constituição (1988)]. Constituição da República Federativa do Brasil de 1988. Brasília, DF: Presidência da República. [2016]. Disponível em: http://www.planalto.gov.br/ccivil_03/Constituicao/Constituiçao.htm. Acesso em: 28 de junho de 2024.

12. Brasil. Decreto n.º 154, de 26 de Junho de 1991. Promulga a Convenção Contra o Tráfico Ilícito de Entorpecentes e Substâncias Psicotrópicas. Diário Oficial da União, seção 1, Brasília, DF, ano 129, n. 122, p. 12418, 27 de junho de 1991. Acesso em: 27 de junho de 2024.

13. Brasil. Decreto n.º 780, de 28 de Abril de 1936. Crêa a Commissão Permanente de Fiscalização de Entorpecentes. Diário Oficial da União, seção 1, Rio de Janeiro, DF, p. 9492, 6 de maio de 1936. Acesso em: 30 de junho de 2024.

14. Brasil. Decreto n.º 847, de 11 de outubro de 1890. Promulga o Código Penal. Coleção de Leis do Brasil, Rio de Janeiro, DF, 31 de dezembro de 1890. Acesso em: 29 de junho de 2024.

15. Brasil. Decreto n.º 2.861, de 8 de Julho de 1914. Aprova as medidas tendentes a impedir o abuso crescente do ópio, da morfina e seus derivados, bem como da cocaína, constantes das resoluções aprovadas pela Conferência Internacional de Ópio, realizada em 1 de Dezembro de 1911 em Haia. Diário Oficial da União, seção 1, Rio de Janeiro, DF, p. 8231, 10 de julho de 1914. Acesso em: 30 de junho de 2024.

16. Brasil. Decreto n.º 4.345, de 26 de Agosto de 2002. Institui a Política Nacional Antidrogas e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 138, p. 3, 27 de agosto de 2002. Acesso em: 28 de agosto de 2024.

17. Brasil. Decreto n.º 5.912, de 27 de Setembro de 2006. Regulamenta a Lei n.º 11.343, de 23 de agosto de 2006, que trata das políticas públicas sobre drogas e da instituição do Sistema Nacional de Políticas Públicas sobre Drogas - SISNAD, e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 143, p. 8, 28 de setembro de 2006. Acesso em: 27 de agosto de 2024.

18. Brasil. Decreto n.º 9.761, de 11 de abril de 2019. Aprova a Política Nacional sobre Drogas. Diário Oficial da União, seção 1, Brasília, DF, ano 156, n. 70-A, p. 7, 11 de abril de 2019. Acesso em: 29 de junho de 2024.

19. Brasil. Decreto n.º 11.480, de 6 de abril de 2023. Dispõe sobre o Conselho Nacional de Políticas sobre Drogas. Diário Oficial da União, seção 1, Edição Extra, Brasília, DF, ano 161, p. 10, 6 de abril de 2023. Acesso em: 27 de agosto de 2024.

20. Brasil. Decreto n.º 11.481, de 10 de Fevereiro de 1915. Promulga a Convenção Internacional do Ópio e o respectivo Protocolo de Encerramento, assinados na Haia, a

Revista ARACÊ
ISSN: 2358-2472

23 de Janeiro de 1912. Diário Oficial da União, seção 1, Rio de Janeiro, DF, p. 3597, 7 de abril de 1915. Acesso em: 30 de junho de 2024.

21. Brasil. Decreto n.º 20.930, de 11 de Janeiro de 1932. Fiscaliza o emprego e o comércio das substâncias tóxicas entorpecentes, regula a sua entrada no país de acordo com a solicitação do Comité Central Permanente do Ópio da Liga das Nações, e estabelece penas. Diário Oficial da União, seção 1, Rio de Janeiro, DF, p. 978, 16 de janeiro de 1932. Acesso em: 30 de junho de 2024.

22. Brasil. Decreto n.º 54.216, de 27 de Agosto de 1964. Promulga a Convenção Única sobre Entorpecentes. Diário Oficial da União, seção 1, Brasília, DF, ano 102, p. 7801, 1º de setembro de 1964. Acesso em: 29 de junho de 2024.

23. Brasil. Decreto n.º 85.110, de 2 de Setembro de 1980. Institui o Sistema Nacional de Prevenção, Fiscalização e Repressão de Entorpecentes e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 118, p. 17482, 4 de setembro de 1980. Acesso em: 27 de agosto de 2024.

24. Brasil. Decreto-Lei n.º 385, de 26 de Dezembro de 1968. Dá nova redação ao artigo 281 do Código Penal. Diário Oficial da União, seção 1, Brasília, DF, ano 106, p. 11201, 27 de setembro de 1968. Acesso em: 2 de julho de 2024.

25. Brasil. Decreto-Lei n.º 2.848, de 7 de dezembro de 1940. Institui o Código Penal. Diário Oficial da União, seção 1, Rio de Janeiro, DF, ano 77, n. 302, p. 23911-23934, 31 de dezembro de 1940. Acesso em: 30 de junho de 2024.

26. Brasil. Departamento Penitenciário Nacional. Ministério da Justiça. (2009). Formulário Categoria e Indicadores Preenchidos: referência: 12/2008. Brasília, DF: Sistema Integrado de Informações Penitenciárias – Infopen. Disponível em: https://www.gov.br/senappen/pt-br/servicos/sisdepen/relatorios/relatorios-analiticos/br/brasil-dez-2008.pdf. Acesso em: 26 de outubro de 2024.

27. Brasil. Lei n.º 7.560, de 19 de Dezembro de 1986. Cria o Fundo de Prevenção, Recuperação e de Combate às Drogas de Abuso, dispõe sobre os bens apreendidos e adquiridos com produtos de tráfico ilícito de drogas ou atividades correlatas, e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 124, p. 19564, 23 de dezembro de 1986. Acesso em: 27 de agosto de 2024.

28. Brasil. Lei n.º 8.080, de 19 de setembro de 1990. Dispõe sobre as condições para promoção, proteção e recuperação da saúde, a organização e o funcionamento dos serviços correspondentes e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 129, p. 18055, 20 de setembro de 1990. Acesso em: 27 de julho de 2024.

29. Brasil. Lei n.º 8.764, de 20 de Dezembro de 1993. Cria a Secretaria Nacional de Entorpecentes e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 131, p. 19805, 21 de dezembro de 1993. Acesso em: 27 de agosto de 2024.

Revista ARACÊ
ISSN: 2358-2472

30. Brasil. Lei n.º 11.343, de 23 de Agosto de 2006. Institui o Sistema Nacional de Políticas Públicas sobre Drogas - Sisnad; prescreve medidas para prevenção do uso indevido, atenção e reinserção social de usuários e dependentes de drogas; estabelece normas para repressão à produção não autorizada e ao tráfico ilícito de drogas; define crimes e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 143, n. 163, p. 2, 24 de agosto de 2006. Acesso em: 30 de junho de 2024.

31. Brasil. Medida Provisória n.º 1.689-6, de 25 de Novembro de 1998. Altera a Lei n.º 9.649, de 27 de maio de 1998, que dispõe sobre a organização da Presidência da República e dos Ministérios, e dá outras providências. Diário Oficial da União, seção 1, Brasília, DF, ano 136, p. 18, 26 de novembro de 1998. Acesso em: 27 de agosto de 2024.

32. Brasil. Ministério da Saúde. Biblioteca Virtual em Saúde: Lei n.º 8080: 30 anos de criação do Sistema Único de Saúde (SUS). 3 ed. Brasília, DF, 2020. Disponível em: https://bvsms.saude.gov.br/lei-n-8080-30-anos-de-criacao-do-sistema-unico-de-saude-sus/. Acesso em: 26 de julho de 2024.

33. Brasil. Ministério da Saúde. Conselho Nacional de Saúde. Carta dos direitos dos usuários da saúde. Brasília, DF: Editora MS, 2011. 28 p. ISBN: 978-85-334-1834-9. Disponível em: https://bvsms.saude.gov.br/bvs/publicacoes/cartas_direitos_usuarios_saude_3ed.pdf. Acesso em: 26 de julho de 2024.

34. Brasil. Secretaria Nacional de Políticas Penais. Ministério da Justiça e de Segurança Pública. RELATÓRIO DE INFORMAÇÕES PENAIS - RELIPEN: 16º ciclo sisdepen - 1º semestre de 2024. Brasília, DF, 2024. 351 p. Disponível em: https://www.gov.br/senappen/pt-br/servicos/sisdepen/relatorios/relipen/relipen-1-semestre-de-2024.pdf. Acesso em: 25 de outubro de 2024.

35. Boiteux, Luciana. Brasil: reflexões críticas sobre uma política de drogas repressiva. Revista Internacional de Direitos Humanos, [s. l.], 1º de agosto de 2015. Disponível em: https://bdjur.stj.jus.br/jspui/bitstream/2011/95772/brasil_reflexoes_criticas_boiteux.pdf. Acesso em: 1º de julho de 2024.

36. Cabral, Umberlândia. De 2010 a 2022, população brasileira cresce 6,5% e chega a 203,1 milhões. Agência de Notícias IBGE, [s.l.], 2023. Disponível em: https://agenciadenoticias.ibge.gov.br/agencia-noticias/2012-agencia-de-noticias/noticias/37237-de-2010-a-2022-populacao-brasileira-cresce-6-5-e-chega-a-203-1-milhoes. Acesso em: 26 de outubro de 2024.

37. Da Silveira, Dartiu Xavier; Niel, Marcelo (org.). Drogas e redução de danos: uma cartilha para profissionais de saúde. Unifesp/PROAD. São Paulo, SP. 2008. Disponível em: https://www.prefeitura.sp.gov.br/cidade/secretarias/upload/direitos_humanos/Cartilha%20para%20profissionais%20da%20saude.pdf. Acesso em: 26 de agosto de 2024.

38. De Carvalho, Talita. Ditadura militar no Brasil. Politize!, Florianópolis, SC, 31 de março de 2021. Disponível em: https://www.politize.com.br/ditadura-militar-no-brasil/. Acesso em: 2 de julho de 2024.

Revista ARACÊ
ISSN: 2358-2472

39. Dos Santos, Nelson Rodrigues. SUS 30 anos: o início, a caminhada e o rumo. Revista Ciência & Saúde Coletiva da Associação Brasileira de Saúde Coletiva, Rio de Janeiro, RJ, v. 23, n. 6, p. 1729-1736, 2018. DOI: https://doi.org/10.1590/1413-81232018236.06092018. Disponível em: https://www.scielosp.org/pdf/csc/2018.v23n6/1729-1736/pt. Acesso em: 26 de julho de 2024.

40. Elia, Daniel; Mendonça, Luiz Octávio Martins; Pinto, Sebastião Vinícius Gomes. Política Nacional sobre Drogas: Desafios de um Cuidado Humanizado e em Comunidade. In: Ribeiro, Raisa D., Paula, Danielle Galdino de, Catane, Ivani (Org.). Ciclo de Debates OGIDERJ: diálogos sobre impactos do consumo, sistemas de saúde e políticas públicas para usuários de álcool e outras drogas. Rio de Janeiro: PodEditora, 2024, p. 57-90.

41. Ferri, Cleusa Pinheiro; Machado, Danusa de Almeida. Capítulo 8: mortalidade associada ao uso de drogas. In: Opaleye, Emérita Sátiro; Noto, Ana Regina; Locatelli, Danilo Polverini; Amato, Tatiana de Castro; Bedendo, André (org.). II Relatório Brasileiro sobre Drogas: sumário executivo. Brasília, DF: Ministério da Justiça e Segurança Pública, Secretaria Nacional de Políticas Sobre Drogas, 2021. Cap. 8, p. 32-34. Disponível em: https://www.gov.br/mj/pt-br/assuntos/sua-protecao/politicas-sobre-drogas/arquivo-manual-de-avaliacao-e-alienacao-de-bens/SumarioExecutivoIIRelatrioBrasileirosobreDrogas.pdf. Acesso em: 25 de outubro de 2024.

42. Fonseca, Elize Massard da. Políticas de redução de danos ao uso de drogas: o contexto internacional e uma análise preliminar dos programas brasileiros. 2005. 112 f. Dissertação (Mestrado em Saúde Pública) - Escola Nacional de Saúde Pública Sergio Arouca, Fundação Oswaldo Cruz, Rio de Janeiro, 2005. Disponível em: https://www.arca.fiocruz.br/handle/icict/4604. Acesso em: 26 de outubro de 2024.

43. Fuini, Pedro. Proclamação da República: Golpe liderado por militares sob o comando de Deodoro da Fonseca pôs fim à monarquia no Brasil. Editora da Faculdade de Filosofia, Letras e Ciências Humanas da Universidade de São Paulo. São Paulo, São Paulo, 15 de novembro de 2022. Disponível em: https://www.fflch.usp.br/40805. Acesso em: 2 de julho de 2024.

44. Franco, Simone. Mudanças em políticas públicas sobre drogas são criticadas na CCJ. Agência Senado. Brasília, DF, 2013. Disponível em: https://www12.senado.leg.br/noticias/materias/2013/09/10/mudancas-em-politicas-publicas-sobre-drogas-sao-criticadas-na-ccj. Acesso em: 25 de outubro de 2024.

45. Garcia, Maria Lúcia Teixeira; Leal, Fabíola Xavier; Abreu, Cassiane Cominoti. A Política Antidrogas Brasileira: Velhos Dilemas. Revista Psicologia & Sociedade, Porto Alegre, RS, v. 20, n. 2, p. 267-276, 2008. DOI: https://doi.org/10.1590/S0102-71822008000200014. Disponível em: http://www.scielo.br/pdf/psoc/v20n2/a14v20n2.pdf. Acesso em: 26 de agosto de 2024.

46. Lago, Tatiana Ribeiro; De Almeida, Odilza Lines. O tráfico de drogas como modalidade de crime organizado transnacional e as políticas sobre drogas no Brasil. Cadernos de Direito Actual, n. 6, p. 75-91, 2017. Disponível em:

Revista ARACÊ
ISSN: 2358-2472

http://cadernosdedereitoactual.es/ojs/index.php/cadernos/article/view/179. Acesso em: 26 de agosto de 2024.

47. Lopes, Marco Antônio. Drogas: 5 mil anos de viagem. Revista Superinteressante. São Paulo, São Paulo, Editora Abril, 31 de janeiro de 2006. Disponível em: https://super.abril.com.br/ciencia/drogas-5-mil-anos-de-viagem. Acesso em: 29 de junho de 2024.

48. Machado, Letícia Vier; Boarini, Maria Lúcia. Políticas sobre drogas no Brasil: a estratégia de redução de danos. Psicologia: ciência e profissão, v. 33, p. 580-595, 2013. Disponível em: https://www.scielo.br/j/pcp/a/xvTC3vVCqjDNYw7XsPhFkFR/?lang=pt&format=html. Acesso em: 26 de outubro de 2024.

49. Martins, Herbert Toledo; Rocha, Rosilene Oliveira. Cem anos de proibicionismo no Brasil: uma análise neo-institucionalista das políticas sobre drogas. Revista Brasileira de Segurança Pública, [s.l.], v. 15, n. 2, p. 112–129, 2021. DOI: <10.31060/rbsp.2021.v15.n2.1262>. Disponível em: https://revista.forumseguranca.org.br/index.php/rbsp/article/view/1262. Acesso em: 28 de junho de 2024.

50. Mendes, Kíssila Teixeira; Vecchia, Marcelo Dalla; Da Costa, Pedro Henrique Antunes; Ronzani, Telmo Mota. Políticas sobre drogas no Brasil: análise crítica, histórico e panorama atual. In: De Micheli, Denise; Andrade, André Luiz Monezi; Reichert, Richard Alecsander; Pinheiro, Bruno Oliveira; Da Silva, Eroy Aparecida - Lopes, Fernanda Machado (org.). Aspectos comportamentais, neurobiológicos e psicossociais do uso e dependência de drogas. 1. ed. Curitiba, Paraná: Editora CRV, 2021. p. 393-408.

51. Mereles, Carla. Perfil da população carcerária brasileira. Politize!, Florianópolis, SC, 1º de março de 2017. Disponível em: https://www.politize.com.br/populacao-carceraria-brasileira/. Acesso em: 25 de outubro de 2024.

52. Moreira, Fernanda Gonçalves; Silveira, Dartiu Xavier da; Andreoli, Sérgio Baxter. Redução de danos do uso indevido de drogas no contexto da escola promotora de saúde. Ciência & Saúde Coletiva, v. 11, p. 807-816, 2006. Disponível em: https://www.scielosp.org/pdf/csc/2006.v11n3/807-816/pt. Acesso em: 26 de outubro de 2024.

PEREIRA, Neli. Lei de Drogas é fator chave para aumento da população carcerária, diz ONG. BBC, São Paulo, p. 1-1, 17 de janeiro de 2017. Disponível em: <https://www.bbc.com/portuguese/brasil-38590880>. Acesso em: 1º de julho de 2024.

53. Phillips, Rod. A brief history of alcohol. [s.l.], 2020. Disponível em: https://www.ted.com/talks/rod_phillips_a_brief_history_of_alcohol?language=pt-br&trigger=0s&subtitle=en. Acesso em: 29 de junho de 2024.

54. Pires, Breno. 'É importante definir de forma mais clara o que é tráfico e o que é consumo', diz chefe da Senad. Estadão. Brasília, Distrito Federal, 3 de janeiro de 2019. Disponível em: https://www.estadao.com.br/brasil/e-importante-definir-de-forma-mais-clara-o-

Revista ARACÊ
ISSN: 2358-2472

que-e-trafico-e-o-que-e-consumo-diz-chefe-da-senad/. Acesso em: 25 de outubro de 2024.

55. Pontes, Paulo Cardoso Ferreira; Santos, Patrícia Vieira de Matos dos Reis; Alves, Gabrielle da Silva Barreto Alves. Álcool, Drogas e Sistema Público de Saúde. In: Ribeiro, Raisa D., Paula, Danielle Galdino de, Catane, Ivani (Org.). Ciclo de Debates OGIDERJ: diálogos sobre impactos do consumo, sistemas de saúde e políticas públicas para usuários de álcool e outras drogas. Rio de Janeiro: PodEditora, 2024, p. 133-164.

56. Ribeiro, Raisa D., Paula, Danielle Galdino de, Catane, Ivani (Org.). Ciclo de Debates OGIDERJ: diálogos sobre impactos do consumo, sistemas de saúde e políticas públicas para usuários de álcool e outras drogas. Rio de Janeiro: PodEditora, 2024.

57. Ribeiro, Raisa Duarte da Silva; Pinto, Sebastião Vinícius Gomes. Freando o punitivismo? O impacto do RE n° 635.659 na política de drogas brasileira. 2024. No Prelo.

58. Portugal. Ordenações, e leys do reyno de Portugal, confirmadas, e estabelecidas pelo senhor Rey D. João IV. Lisboa: No Mosteiro de S. Vicente de Fóra, Câmara Real de Sua Majestade. Lisboa, Portugal, 1747. Disponível em: https://bd.camara.leg.br/bd/handle/bdcamara/21800. Acesso em: 27 de junho de 2024.

VIEIRA, Iacyr de Aguilar. A essência da Constituição no pensamento de Lassalle e de Konrad Hesse. Revista de Informação Legislativa. Brasília, DF. n. 139, p. 71-81, 1998. Disponível em: <https://www2.senado.leg.br/bdsf/bitstream/handle/id/388/r139-05.pdf>. Acesso em: 8 de julho de 2024.

59. Santos, A. T.; Oliveira, L. F. de. Políticas públicas sobre álcool e outras drogas: breve resgate histórico [Public policies on alcohol and other drugs: a brief historical rescue]. Saúde & Transformação Social / Health and Social Change, Florianópolis, Santa Catarina, v. 4, n. 1, p. 82–89, 2013. Disponível em: https://incubadora.periodicos.ufsc.br/index.php/saudeetransformacao/article/view/1909. Acesso em: 28 de junho de 2024.

60. Schechtman, Alfredo; Sávio do N. Alves, Domingos; Correia e Silva, Rosane. Política de Saúde Mental do Ministério da Saúde. Revista de Ciências Médicas, [S. l.], v. 4, n. 3, 2024. Disponível em: https://periodicos.puc-campinas.edu.br/cienciasmedicas/article/view/10723. Acesso em: 27 de agosto de 2024.

61. Silva, Antônio Fernando Lima Moreira. Histórico das drogas na legislação brasileira e nas convenções internacionais. Revista Jus Navigandi, ISSN 1518-4862, Teresina, Piauí, ano 16, n. 2934, 14 de julho de 2011. Disponível em: https://jus.com.br/artigos/19551. Acesso em: 28 de junho de 2024.

62. Torcato, Carlos Eduardo Martins. A história das drogas e sua proibição no Brasil: da Colônia à República. 2016. Tese (Doutorado em História Social) - Faculdade de Filosofia, Letras e Ciências Humanas, Universidade de São Paulo, São Paulo, 2016. DOI: https://doi.org/10.11606/T.8.2016.tde-05102016-165617. Disponível em: https://teses.usp.br/teses/disponiveis/8/8138/tde-05102016-

Revista ARACÊ
ISSN: 2358-2472

165617/publico/2016_CarlosEduardoMartinsTorcato_VCorr.pdf. Acesso em: 28 de junho de 2024.

63. Torcato, Carlos Eduardo Martins. Breve história da proibição das drogas no Brasil: Uma revisão. Revista Inter-legere, Natal, Rio Grande do Norte, n. 15, p. 138–162, 2014. Disponível em: https://lehda.fflch.usp.br/sites/lehda.fflch.usp.br/files/upload/paginas/2014.%20TORCATO.%20uma%20historia%20da%20proibicao%20das%20drogas.pdf. Acesso em: 28 de junho de 2024.

64. United Nations Office on Drugs and Crime - UNODC. Drogas: marco legal. [s.d.]. Disponível em: https://www.unodc.org/lpo-brazil/pt/drogas/marco-legal.html. Acesso em: 29 de junho de 2024.

65. United Nations Office on Drugs and Crime - UNODC. Relatório Mundial sobre Drogas 2024 do UNODC alerta para o crescimento do problema das drogas no mundo em meio à expansão do uso e dos mercados de drogas. Viena, 2024. Disponível em: https://www.unodc.org/lpo-brazil/pt/frontpage/2024/06/relatorio-mundial-sobre-drogas-2024-do-unodc-alerta-para-o-crescimento-do-problema-das-drogas-no-mundo-em-meio--expanso-do-uso-e-dos-mercados-de-drogas.html. Acesso em: 26 de outubro de 2024.

66. Vivas, Fernanda. Porte de maconha para consumo individual: veja quais os próximos passos e os efeitos da decisão do Supremo. G1, Brasília, 25 de junho de 2024. Disponível em: https://g1.globo.com/politica/noticia/2024/06/25/porte-de-maconha-para-consumo-individual-veja-quais-os-proximos-passos-e-os-efeitos-da-decisao-do-supremo.ghtml. Acesso em: 29 de junho de 2024.

67. Xavier, Rosane Terezinha et al. Políticas públicas de atenção aos usuários de drogas no contexto brasileiro: revisão narrativa de literatura. Pesquisas e Práticas Psicossociais, São João del-Rei, Minas Gerais, v. 13, n. 1, p. 1-12, abr. 2018. Disponível em: http://pepsic.bvsalud.org/scielo.php?script=sci_arttext&pid=S1809-89082018000100006&lng=pt&nrm=iso. Acesso em: 28 de junho de 2024.

68. Zaluar, Alba. Integração perversa: pobreza e tráfico de drogas. FGV Editora, 2004.