

## Regulation of marijuana by the Brazilian Senate: a public health issue

A regulação da maconha no Senado Federal: uma pauta da Saúde Pública no Brasil

La regulación de la marihuana en el Senado: un programa para la Salud Pública en Brasil

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The prohibitionist model for combatting drugs has run its course in Brazil <sup>1</sup>, as shown by the violence associated with the drug traffic, illegal trade of adulterated substances, lost fiscal revenues, waste of public resources, diversion of attention from society's real problems (in favor of a false solution), and lack of clinical studies on the efficacy and effectiveness of currently banned medicinal plants <sup>2</sup>. However, the Brazilian Legislative Branch appears to be aware of the population's evolving opinions on the issue. The National Senate and Chamber of Deputies recently launched a discussion on the regulation of marijuana in Brazil, urged by a citizens' petition submitted in February 2014.

The website of the National Senate provides a mechanism for citizens' participation called the e-Citizenship Portal, established by Ruling no. 3/2011 of the Senate Steering Board <sup>3</sup>. *Legislative Ideas* is the link in this portal that offers citizens the possibility of petitioning for bills to create new laws, amend existing ones, or improve the National Constitution. The ideas are analyzed according to the portal's terms of usage, verifying the wording's consistency and coherence, absence of inappropriate, disparaging, or offensive terms, and non-violation of inalterable Constitutional provisions.

The e-Citizenship Portal allows citizens to support a petition by completing a form. To con-

firm their support, citizens must access a single and temporary link, sent by email. Following confirmation, the system automatically tabulates the messages. The petition must receive at least twenty thousand messages of support within a four-month period in order to be submitted formally to the Senate Committee on Human Rights and Participatory Legislation <sup>3</sup>. The first initiative that materialized through this portal was a petition launched by physical therapists that led to an interactive public hearing in the Senate Committee on Social Affairs on November 28, 2013 <sup>4</sup>. Through this same channel, the e-Citizenship Portal received and recorded a petition on January 30, 2014, to regulate the recreational, medicinal, and industrial uses of marijuana <sup>5</sup>.

The portal tabulated the number of incoming support messages in real time, displaying the total amount received immediately after each online confirmation. With more than 20 thousand messages received in only four days, the petition generated proposition SUG 8/2014, received by the Senate Committee on Human Rights on February 11, 2014, with Senator Cristovam Buarque of the Democratic Labor Party (PDT/DF) as the designated rapporteur <sup>6</sup>. This mass support for a petition to regulate marijuana meant a major step forward in Brazilian society, mirroring an international trend. According to Room <sup>7</sup>, initiatives to regulate marijuana highlight the need to

revise international drug treaties, making prohibition a matter of choice and no longer an obligation for United Nations member countries.

At the global level, initiatives to legalize marijuana have shown a gradual change, as demonstrated in the United States, where 22 out of 50 States have already regulated the medicinal use of marijuana and Colorado and Washington have authorized recreational use<sup>7</sup>. According to Grinspoon<sup>8</sup>, marijuana is commonly (but not exclusively) used in the treatment of severe nausea and vomiting from cancer chemotherapy, epilepsy, multiple sclerosis, glaucoma, pain and spasms from paraplegia and quadriplegia, chronic pain, HIV/AIDS, migraine, rheumatic diseases (osteoarthritis and ankylosing spondylitis), menstrual cramps, premenstrual syndrome, labor pains, Crohn's disease, ulcerative colitis, phantom limb pain, hyperemesis of pregnancy, and depression. Further in the international context, another initiative for the regulation of marijuana that merits attention was the approval of the bill of law in Uruguay. The Uruguayan Senate posted the transcripts from the sessions in the Committee on Public Health (where the bill was reviewed) on the Congress website during the second semester of 2013.

During the same period, the Brazilian National Senate published the review of PLC 37/2013, a Bill of Law under the Chamber of Deputies that amends *Law n. 11,343* of August 23, 2006<sup>9</sup>. PLC 37/2013 rules on the National System of Public Drug Policies, conditions for care provided to drug users or addicts, and financing of drug policies, but fails to modify any issues pertaining to decriminalization of drug possession for personal use or regulation of marijuana. Uruguay passed its Bill of Law on December 10, 2013. On March 26, 2014, Brazil's PLC 37/2013 was removed from the agenda for reexamination of the respective report, and a public hearing on decriminalization of drug possession for personal use and the unconstitutionality of Article 28 of *Law n. 11,343/2006* was held on May 20, 2014.

The Brazilian Executive Branch prohibits marijuana by classifying it as a banned plant on List E of *Ruling n. 344/98* of the National Health Surveillance Agency (ANVISA). THC is also banned, but included on List F1. ANVISA has the power to shift marijuana and cannabinoids to Lists A, B, or C by means of a Resolution of the Collegiate Directorate, an infra-constitutional act that would allow physicians to issue special prescriptions and that would set precedents for importation and incentives for research and cultivation of medicinal marijuana in the country.

The repercussions of proposition SUG 8/2014 also sparked two bills of law submitted in the Chamber of Deputies to authorize the production and commercialization of marijuana, in addition to court action by parents of children with rare syndromes associated with refractory epilepsy and who have benefited from marijuana oil, containing high concentrations of cannabidiol (CBD). Despite initiatives to resituate marijuana use, Brazil's prevailing policy is still based on *Law n. 11,343/2006*<sup>9</sup>. The law devotes 23 articles to safeguarding the rights of drug consumers (prevention, care, and social rehabilitation), but a full 46 articles, or double the number, to criminal sanctions for drug violations.

Decriminalization of possession for personal consumption differs from regulation of marijuana. Decriminalization protects consumers from police violence<sup>10</sup> but does not solve problems associated with the drug traffic or protect users from this illegal market<sup>11</sup>, since production and commercialization are still an illegal trade. Meanwhile, since regulation aims to establish rules for all the economic activities involved in this consumer relationship, the illegal market would lose clients and space, since it fails to provide quality assurance or safety for users. Regulation therefore repositions a consumer good that is currently controlled by criminal factions<sup>10</sup>, placing it in the state's hands and thus representing a more comprehensive measure than decriminalization.

The laws for regulation of marijuana in Uruguay and various States of the United States impact the public health field. The Uruguayan government expects regulation of marijuana to reduce harm and protect the country's citizens from the risks involved in the illegal drug trade, using state intervention to attack the devastating health, social, and economic consequences of problematic use and reduce organized crime<sup>12</sup>.

The scientific literature reflects discordant views on the public health impact of regulating psychoactive substances<sup>13</sup>. The current article places total prohibition, decriminalization, and responsible regulation in perspective as policy alternatives for decision-makers. The old polarization between public health and criminal justice, oscillating between two discourses (medical/public health and legal/repressive)<sup>14</sup>, has given way to plural solutions to a complex problem. The invitation to the debate on the regulation of marijuana and the construction of a regulatory framework cannot be reduced to the idea of defending or promoting use, but rather an in-depth reflection on what can be achieved by stripping the debate of worn-out prejudices.

## Contributors

The authors participated in all stages of preparation of the manuscript.

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