Resumen

¿Quiénes son nuestros monstruos contemporáneos? ¿Quiénes son los marginados? ¿Quiénes son aquellos de los que no queremos hablar? ¿Quiénes son los que no aparecen en los registros oficiales? ¿Quiénes son aquellos que tenemos un poco de piedad y a quiénes no da tanto importancia? ¿Quiénes son los que cometen algún tipo de crimen. Como consecuencia, de estos dos atributos principales, tales individuos no son recordados o considerados dignos de ser defendidos, pues se encuentran siempre bajo un juicio moral. Este artículo se centra en los lugares que representan a la sociedad en la que vivimos. En este sentido, se puede decir que la sociedad contemporánea es un lugar que no se respete a los demás.

A SHORT HISTORY OF THE BRAZILIAN MENTAL HEALTH SCENARIO AND THE EMANCIPATORY DISABILITY RESEARCH

The asylum is considered a classic example of the violation of human rights, in which the patient is totally deprived of their individuality, does not have the slightest autonomy, and is at the mercy of the greatest cruelty that a human being can endure. This is why we consider it important to revisit the Brazilian mental health and the scenario of anti-psychiatry.

INTRODUCTION

The asylum is considered a classic example of the violation of human rights, in which the patient is totally deprived of their individuality, does not have the slightest autonomy, and is at the mercy of the greatest cruelty that a human being can endure. This is why we consider it important to revisit the Brazilian mental health and the scenario of anti-psychiatry.
In 1979, the Italian psychiatrist Franco Basaglia1 was in Brazil and went to the Colonia. After his visit, he called a press conference and said: “I was in a Nazi concentration camp today. Nowhere in the world have I witnessed such a tragedy like this.” It is estimated that sixty thousand died at Colonia hospice. There was a genocide in Brazil throughout the twentieth century, where the state and society were allies (ARBEX, 2013).

The struggle for changing the model of mental disorder treatment began in the 1950s. The horrors of the Second World War aroused concern for the defense of human rights, and this led to questioning the asylum model, in which people spent their entire life in hospitals, with little or no psychological treatment at all, far from their home, family, and community.

The Psychiatric Reform in Brazil began to take shape in the 1970s. However, concerns about the way in which patients were treated inside the asylums, began to become public in the 1950s with the physician Nise da Silveira2She was the pioneer in introducing Occupational Therapy (OT) practices inside the asylums and as a way to treat the inmates. This practice was committed to creating a humanistic character of therapeutic procedures for the treatment of mental disease such as schizophrenia (ARANHA E SILVA, 2012).

Parallel to this revolutionary movement of Silveira, it was in Italy that the epidemiological and methodological rupture occurred between different historic practices of psychiatric knowledge. The deinstitutionalization movement originated from Franco Basaglia’s work at the Psychiatric Hospital of Gorizia (1961-1968), where he began to promote a number of conceptual and practical changes to improve the hospital conditions, and technical care given to inmates in Gorizia (ARANHA E SILVA, 2012).

Nevertheless, as he noted the lack of conditions for human dignity and the misery in which patients underwent psychiatric hospitalization, he understood that a simple humanization would not be enough to help them. It was necessary to make a profound transformation both in the psychiatric care model and in the relationship between society and madness. It was clear that the asylum was a place of segregation, violations of human rights and death. It, therefore, had to be fought, denied overcome and have its purpose questioned in a broader context of social institutions (AMARANTE, 1998).

Basaglia (2005) said that the asylum was not created to treat the wounds of those who suffer from madness, but rather, the asylum appeared as a defense for the sane against the madness. The high walls isolated the “center of infection.” In addition, Basaglia’s ideas inspired the Brazilian Psychiatric Reform and constituted one of the main influences for this movement.

In Brazil, this process began more or less simultaneously with the country’s re-democratization process, when the struggle for the end of the military dictatorship started, and new political demands began to be made. In the health field, a great movement for the democratization of services forwarded the idea of creating policies more directed towards the most disadvantaged segments of society. The aim was to create a policy that was genuinely national and not only a policy of assistance to the disease that was directed toward the most populous strata of the population (AMARANTE, 1998).

As a consequence, this popular movement became known as ‘health reform’ and included the creation of a public policy, free of charge, as a duty of the State and as a right of the citizen. A proposal that ended up being included in the Constitution of 1988. Therefore, the proposal of the Unified Health System - SUS (regulated by the Health Act number 8080/1990) was one of the most important and significant proposals for the transformation of Brazilian public health services. The movement originated from the State and Social movements (ARANHA E SILVA, 2012).

In this sense, the popular struggle had a very important role in the mental health field, which turned into public policy as it dialogued with the notion of social participation in policy. Today in Brazil this is called Popular Participation and Social Control, which is the idea of creating national health conferences, and councils at the municipal, state, and national levels, in order for society to have effective participation channels in politics (BRASIL, 2013). Recently, in December 2015, it the 15th edition of the National Health Conference was held and the 16th edition is scheduled to happen in 20193.

In 1989, Federal Deputy Paulo Delgado proposed the regulation of the rights of the person with mental disorders and the progressive extinction of the countries asylums, replacing them with alternative care mecha-

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1Influential Italian psychiatrist and considered by WHO as a world reference for overhad the mental health care.
2Medical psychiatrist and director for 28 years of the Sector of Occupational Therapy and Rehabilitation (STOR) in the Psychiatric Center Pedro II (1946-1974).

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1From the 1993 legislation, in the midst of the reforms introduced in the Hospice Nacional de Alienates, located in Rio de Janeiro, a special section was created to house the “crazy criminals”. Significantly, the section was dubbed the “Lombozro Section,” in honor of the Italian psychiatrist and criminal anthropologist César Lombroso, who at the end of the nineteenth century became famous for developing a theory that some individuals, whom he termed “born criminals” – would be born with a marked tendency towards evil (CARRARA, 2010).

2The judiciary insane asylum is a hybrid between a prison and a psychiatric hospital and experience the twin violence of the two institutions. There are degrading physical conditions, a lack of privacy, rats, bugs, hygiene issues, poor lighting, cold baths, and other degrading conditions. For the Federal Council of Psychology, this suggests that the logic of these institutions is not treatment, but only punishment (BRASIL, 2012).

3Resulting from the merger between the psychiatric asylum intervention techniques and the criminal enforcement of the State of perpetrators of crimes who are considered as having mental disorders, the judiciary
Asylum can represent both the radicalization of the mental hospital and the prison. An institution for those considered insane, whose status is worthy of imprisonment, in conditions seen to be even worse than an asylum. On the other hand, prisons have developed the sanitary tutelage discourse to be even more effective in perpetuating the isolation and mortification of the subject in conflict with the law - far beyond what the Law now allows for a prison (BRASIL, 2015).

Against alienation treatment, we stand...

According to Brasil Report, 2015, of the 18 units surveyed, only 18% of the institutions had only one unit complying with the minimum periodicity of the sanitary examinations and 70% of the sample has access to the public defenders, and even so, the presence of lawyers is so negligible.

Based on the argument of dangerousness, the State and our society allow citizens to be locked away when the subject is considered crazy by the institutions of penal control, either through the most serious conflicts or through simple and banal contraventions of criminal law. The subject is effectively kidnapped by the State and may never return to freedom, to try one day to return to pursue their life projects and happiness in society. The report that indicates the end of dangerousness should necessitate the release permit and can only be produced by a psychologist. However, according to the report, only five institutions shown to have had such release records from psychologists (BRASIL, 2015).

The situation becomes even more difficult for patient/prisoner to get out of the prison/asylum if they cannot rely on access to justice (BRASIL, 2015).

As for the physical structure, we can summarize in just one word: precarious. The report also shows that in seven of the seventeen asylums surveyed, there is overcrowding, ranging from 110% of the installed capacity of the beds. The cells are mostly collective, but there are some individual cells, which are used in cases of self-harm, fights, or crisis/outbreaks. It was found during the inspection that individual cells can also be used as “punishment” cells. This isolation also occurs with HIV-positive prisoners and pedophiles, as a kind of “insurance”, very common in prisons that do not care for offenders with mental disorders (BRASIL, 2015).

Regarding the structural evaluation of the asylum spaces, all reports reflect suggest they are dehumanizing and degrading places of torture and of the annihilation of individuality and freedom. This report also questioned the situation of health professionals of the institutions surveyed. The following data show 53% of the psychologists reported that they did not respond based on the Psychiatric Reform principles, 6% of them did not even have the presence of psychologists, 18% reported complying with the principles, and 23% opted for not responding (BRASIL, 2015).

These data, we can note that they reveal another reality, still very far from the legal milestones of the Psychiatric Reform. In Brazil, people with mental disorders in conflict with the law are abandoned, imprisoned, often forgotten for decades, and subjected to various types of abuse. Some resolutions and recommendations of the institutions entities such as the National Council of Justice and the National Council of Criminal and Penitentiary Policy are trying to give to the patient/prisoner what is his right. However, such legal efforts have not impacted the mass practice of exclusion, which remains loose and seems to have no brakes or limits (BRASIL, 2015).

The Brasil Report 2015 shows that the practices so combated by the anti-asylum struggle are not yet present in the Brazilian justice system since people with mental disorders who commit crimes receive more punishment than treatment. Part of the problem came from the mental illness stigma, which the perception of the patient/prisoner as dangerous and irrational people, who must, therefore, be removed from society. It can be seen that these institutions continue to perpetuate the macromanic logic prohibited by Law 10.216 and continue to be just another “deposit” of people who are unwanted by society and that requires too much effort of the State to take care of.1

The advances of the Psychiatric Reform and its achievements through Law 10.216 has no effect when we are referring to the transgressor. The impression is that the judiciary asylum is a way of “cheating” the Psychiatric Reform Law. The Brazilian State is so complicit and negligent, that this process of “breaking the law” is totally clear, it is wide open for anyone who wants to see. Law 10.216 prohibits institutionalization, but the judiciary asylum remains legal, and the violations that occur within these institutions continue to be silent, invisible, as do the people who are imprisoned there. In other words, there are still asylum institutions in Brazil and we still perpetuate the same cruel asylum logic.

Finally, the Brasil Report 2015 makes it very clear that in one way or another there is also life imprisonment in Brazil. One there are people arrested in the judiciary asylums, they are totally abandoned by the State and neglected by the defense and health professionals, and as a consequence, do not receive their report of ‘end of dangerousness’, and therefore have no possibility of reducing their sentence. They are being sentenced to life.

The struggle must go on

We understand that mental health policies in Brazil have a trajectory of struggles which start in the same atmosphere as the movements against the dictatorship and for the re-democratization of the country. It is a history. We believe from the bottom up, from social movements that are also connected with demands for a universal health service.

Along with the Brazilian public health struggles, there were the Disabled people’s social movements emerged in 1970 in countries such as USA and UK as a consequence of politicalization of the question of disability (Fontes, 2014). These principles closely followed the international standards handed down by the World Health Organization (WHO) and documents such as the Declaration of Alma-Ata of 1978 (which inspired Brazilian’ public health system) established the ethical standards underlying the intended reform (MARQUES, 2017).

The Psychiatric Reform Law could only be approved after long 20 years of struggle by all the stakeholders: patients of psychiatric hospitals, members’ relatives, mental health professionals, academic researchers, politicians, and bureaucrats who were willing to create a new integrated mental health policy. Besides this, the Law’ text was composed through a task force between all its agents, mainly the patients and researchers in this field (ARANHA E SILVA, 2012).

In these contexts, the politicization of disability has been accompanied by the emergence within the academic world, of disability studies, an area of research essentially based on a political commitment to denouncing social oppression, and a desire for a more inclusive society (FONTES, 2014, p. 850).

With the Mental Health Attention Network (Rede de Atenção Psicossocial, RAPS) it was able to create labor unions/cooperatives, houses for former residents (from asylum), who are producing and doing a number of things. In addition, since 2001 with the approval of Law 10,216, more than 60,000 psychiatric beds were closed, over 2,000 CAPS were opened, more than a thousand cultural projects, such as theatre, music, choirs, and individual artists have also excelled (BRASIL, 2013).

One of the mental health policy achievements enabled the development of cultural groups. For example, artistic initiatives such as theatre groups connected to a Psychosocial Care Centre (CAPS). There are also dozens of carnival blocks, in cities as Rio de Janeiro and São Paulo which are already on the cultural agenda of the cities and have received prizes. In 2001, was founded a carnival block wing inside the samba school X-9 Paulistana, called: Loucos pela X. In 2015 came a report in the New York Times on the block “Tá Pirando, Pirado, Piruro”, and “Loucura Suburbana” won the award for second best carnival group of Rio de Janeiro. The parades bring together health professionals, people with mental disorders and their families to celebrate the National Day of Anti-Asylum Struggle (May 15th). The identity of these initiatives does not follow a medicalizing logic, it is not just a group of artists with mental disorders, it is primarily a theatre/parade group, which also has people with mental disorders or psychiatric diagnoses that performs in various spaces.

Brazilian mental health current scenario

This is the great innovation of the Psychiatric Reform, a public policy of mental health that changes the care model but also changes the place of these subjects, which were considered only patients and now are their life protagonists, agents of their own stories. However, at the moment, due to the national political conjuncture,
Brazil runs the risk of suffering a setback to all these advances. The mental health field has always been one of the intense disputes, mainly based on financial interests. On the one hand, there are hegemonic forces that defend the permanence of manicomial treatment and all that entails, that is, keeping the subject in full custody and tutelage of their bodies and minds, whilst maintaining the enrichment system of both the pharmaceutical industry, and many of the owners of treatment clinics8 (AMARANTE, 1998). About the pharmaceutical industry, the producers of medications were always interested in increasing sales of their own drugs, even though it would be necessary to highlighting side-effects of medications of their competitors and casting aspersion on their efficacy (BELDIE et al, 2012).

On the other hand, there is a counter force that advocates for freer treatment, creating connections within the surrounding community and building a full recovery of the subject (biopsychosocial model of WHO 2001). This side of the dispute is formed by Social Movements and activists and it is constituted of former patients from asylums, and current users of SUS Mental Health Network, whose make a point of remembering their history so that this will never happen again (AMARANTE, 1998).

However, Brazil is going through a very critical time in the political arena. Since the impeachment of President Dilma Rousseff in 2016, the interim government of Michel Temer (PMDB – ultra-conservative party with a majority in Congress) is replacing several ministries posts and this makes some political change its course. The mental health field has always been one of the intense disputes, mainly based on financial interests. On the one hand, there are hegemonic forces that defend the permanence of manicomial treatment and all that entails, that is, keeping the subject in full custody and tutelage of their bodies and minds, whilst maintaining the enrichment system of both the pharmaceutical industry, and many of the owners of treatment clinics8 (AMARANTE, 1998).

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and families bound and need to have their lives’ ownership again. Is this a utopian idea?

The snapshot of the data presented on the judiciary asylums deserves more than reflection, it deserves direct action, in the sense that all social movements, class entities, unions, and other kinds of collections are struggling to escape from this monstrous cruelty to psychotic people, saying that they should not be arrested, that instead they are subject to a measure that will treat them. There had been patients detained for 19 years, 27 years, according to the Report Brasil 2015. In the words of the psychologist rapporteur Maria Maria Aparecida Diniz from Report Brasil 2015:

They should be treated as human beings, but they are treated like animals. They have no contact with the outside world, no sense of joining cities again, never receiving visitors, perhaps because they have killed a family member or perhaps because the family itself does not wish to make contact (BRASIL, 2016, p. 155).

However, coming against this deplorable scenario and answering the question about utopian ideas, two initiatives are being developed that are dealing with these problems under the principles of Psychiatric Reform. These two programs are being used by the National Council of Justice and aim to host the individual with mental disorders which committed a crime within the public health service and link them to a therapeutic project. The pioneering initiative occurred in 2000, with the implementation and performance of Integral Attention Program to the Judiciary Patient (Programa de Atenção Integral ao Paciente Judiciário - PAI-PJ). Belonging to the Court of Justice of the State of Minas Gerais, it has more than 1,200 patients in care, with no possibility of segregation, and comes with the proposal to undo ingrained prejudices in society and promote an individualized treatment for each patient, deconstructing the need for custody asylums (BRASIL, 2015).

In the same direction, following the new reality brought by the Law of Psychiatric Reform, the State of Goiás presented a redesign in the execution of security measures, no longer exclusively regulated by criminal legislation and the therapeutic character prevailed. Connected to the State Department of Health of Goiás created in 2006, the Program of Integral Attention to the Crazy Offender (Programa de Atenção Integral ao Louco Infrator - PAILI), received the support of the State Public Ministry. Thus, consolidating a model of care in safety measures, definitively abolishing the outdated figure of the judiciary asylum, using the psychosocial care network as a support for treatment (BRASIL, 2015).

In the case of PAILI, a subject who commits a crime and is submitted in court as a security measure in Goiás, will not be labeled criminally insane, and instead be inserted into the Psychosocial Care Network (RAPS). Each case will be examined on its own merits and circumstances. As a consequence, this is the situation where health policy entry requires a unique therapeutic project for each case and requires a life, inclusion, care and treatment project for each subject submitted to the security measure (BRASIL, 2015).

Such initiatives aim to show that it is possible to treat without segregating people with mental disorders in conflict with the law. This intermediation between justice and health is one of the strong points of the program since it prevents the patient from remaining hospitalized by the high court for not having permission to leave and not receiving a psychiatric assessment.

I completely agree when the author Marques (2017) stands that mental health is far more than the absence of mental illness, it involves facing crises, adapts to changes, re-establishing relationships and finding a purpose in life. This perspective contributes with the understanding of communitarian and economic participation, the biopsychosocial concept, that constitutes a key factor for the social inclusion.

**Final thoughts**

The mental health field is under the concept of disability, once it is understood as a social issue that was constructed by modern western biomedicine as a particular form of pathology, which only medical perspective could validate the disability and understand people as passive subjects dependent on care (FONTES, 2014). Response was always based on the idea that decisions concerning the lives of disabled people should be made by professionals, at the forefront of knowledge. This authoritarian relationship laid the foundations for disqualifying the perspectives of disabled people, in which the limits and inequalities imposed by the social order tend to play a central role (FONTES, 2014, p.850).

The judiciary asylums constitute as institutions with two objectives: to guard and treat dangerous mental patients, a mixed psychiatric hospital, and prison. There are a double strand, hospital, and prison, which sets the ambiguous character of this institution as one of the variables responsible for their technical limitations and treatment. The formally explicit objective is the therapeutic proposal, which aims to treat the mentally ill. In contrast, the implicit objective of this total institution is to punish the subject and protect society. Thus, as it fulfills this objective, the institution in its organization, tends to segregate and alienate the mentally ill (GOFFMANN, 1992).

In addition, taking Fontes’ (2014) perspective about disability, what is needed to contribute with the disable people studies is a reconceptualization of disability as a form of social oppression and understand enabling people to “reinterpret their social position in opposition to the values that had previously disqualified them” (p.851). Therefore, this essay aimed to add with the struggle to stop the asylum model, once it violating the dignity of the human person, inflicting inhuman or degrading treatment, and violating the principle of equality and there is no healthy return to anyone.

The use of psychiatric hospitalization in the asylum mode is not over, although it was banned in 2001, with the Anti-Asylum Act, which supposedly prohibits the admission in asylum conditions, there has never been an eradication of the asylums. Thus, the anti-asylum movement is a movement that does not stop once the asylum is always reinventing itself.

The scenario described in the “Brazilian Holocaust” (Daniela Arbex’s book) is a very shameful piece in Brazil’s story, and even then, it still remains a public policy. What happens there goes far beyond any possibility of treatment since it is believed that the person with mental disorders that committed a crime, is taken to the judiciary asylum to be treated, but this does not happen in practice. These institutions operate like a machine to crush people and it is a place where torture is in the essence of its existence.

The judiciary asylum is an instrument of torture against the patient, it is life imprisonment for those who cannot be punished criminally. The prison automatically cultivates torture and violence because it has no legal basis for existence or application. Meanwhile, judges from all over Brazil send people to asylums at the request of the Public Prosecutor’s Office, under the board of the Public Defender. It is more than proven that the health and public security system as a whole, naturalizes the model of the asylum in this whole context.

It is essential to deconstruct, once and for all, the idea of asylums and any kind of similar institution. The construction of alternatives and solutions such as PAI-PJ, PAI-LI programs and the expansion of Residential Therapeutic Services are more than a bet: they are a concrete, successful and achievable reality. The Brazil Report 2015 is a good step on the path to the deconstruction of asylum logic. We must reaffirm the maximum of Franco Basaglia (2005): “There is only possible treatment when there is freedom”.

I hope to have demonstrated with this essay that the mental asylum is one of the most impermeable spaces for the transformations based on the human rights of patients since psychological treatment and access to defense is not a reality in Brazilian institutions. In this case, standing with the patients is to defend the very end of this type of institution and.

Throughout this essay, I intended to make it clear that the Psychiatric Reform Law was created through the activism efforts of all the involved agents and that the judiciary asylum is one of the most impermeable spaces for the transformations based on the Human Rights. Thus, I believe that this paper is politically engaged committed to the struggles of mental health movement and can contribute to the dissemination of emancipatory disable studies since standing for the patient/prisoner’ rights is defending the asylum’ closure and a profound reform of the legislation that supports it.

Accordingly, to the definition of emancipatory research as “the empowerment of disabled people through the transformation of material and social relations of research production” (Barnes, 2003 apud Fontes, 2014), it can be understood that the mental health policies, the anti-asylum law analysis, and its studies can contribute with this regard, through its construction made by patients, their families, health professionals, academic research, and bureaucrats.

In addition, this essay also can contribute with the epistemological aspect of the mental health scenario in the sense that it explains the paradigm of judiciary asylum, how far the psychiatric reform law is from its reality and the recent initiatives that take into account anti-asylum struggles. People with mental disorders that committed a crime occupy a place in which oppression is legitimized and they are under fundamental forms of inequality and social control in contemporary society.
Santos

References


