

AGAINST ALIENATION TREATMENT, WE STAND FOR!

SANTOS, Ligia Bugelli Hermano.¹

ID ORCID: <https://orcid.org/0000-0002-4732-0461>

*Autor para correspondência e-mail: libugelli@gmail.com

Palavras-chave

Direitos Humanos
Desigualdades
Discriminação
Transformação Social

Keywords

Human Rights
Inequalities
Discrimination
Social Transformation

Palabras clave

Derechos Humanos
Desigualdades
Discriminación
Transformación Social

RESUMO

SOMOS CONTRA O TRATAMENTO ALIENADOR!

O presente artigo tem como objetivo o modelo de gestão dos territórios e da população da cidade de São Paulo que está ocorrendo dentro das tendências de racionalidade neoliberal, o que acaba por proporcionar projetos urbanos que se modelam a partir de Parcerias Público-Privadas (PPP). Apoiando-se nos estudos que o filósofo Michel Foucault desenvolveu sobre o controle dos espaços e dos corpos, da produção de subjetividades, as relações de poder-saber e a respeito da governamentalidade, procuramos demonstrar como os atuais projetos urbanos buscam através de padrões normativos perpetuar a gestão da sociedade e a disciplina dos corpos, visando uma sujeição da população dentro de uma racionalidade que ao privilegiar uma organização da cidade em torno da produção e circulação do capital, legitima a institucionalização um racismo de estado.

ABSTRACT

Who would be our most contemporary monsters? Who are the outcasts? Who are the ones that (or whom) we don't want to speak about? The Brazilian society still has places where the established concept of human by Human Rights Standards seems not to be reaching. The so-called "legal asylums" or "judiciary asylums" are places that aggregate not only the "lunatics" but also the ones with mental disorders that additionally committed a crime. As a consequence, of these two main attributes, such persons are not remembered or considered worthy to be advocated, being under a moral judgment. With this in mind, this paper is focused on constructing a critical engagement with the Brazilian Mental Health issue, under the analysis of "legal asylums" and it aims to contribute to the epistemological aspect of the issue. In addition, it aims to bring up a mix of theoretical notions and paradigms about the Brazilian mental health struggle, as well as its political historical background both of the health professionals and patients social movements. Mental Health Social Movements can be understood as an individual and institutional response to stop producing and reproducing inequalities and discrimination, and a path towards a more inclusive society.

RESUMEN

¡SOMOS CONTRA EL TRATAMIENTO DE LA ALIENACIÓN!

¿Quiénes serían nuestros monstruos contemporáneos? ¿Quiénes son los marginados? ¿Quiénes son aquellos de los que no queremos hablar? Todavía hoy en la sociedad brasileña hay lugares donde el concepto de 'ser humano' establecido por los Derechos Humanos parece no existir. Los llamados «asilos legales» o «manicomios judiciales» son lugares que recluyen no sólo a los «locos», sino también a aquellos en sufrimiento psíquico que, además, cometieron 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 la construcción de un compromiso crítico con la cuestión de la Salud Mental Brasileña, a través del análisis de «manicomios judiciales» y pretende contribuir al aspecto epistemológico de la cuestión. Además, pretende traer a la superficie una mezcla de nociones teóricas y paradigmas sobre la lucha por la salud mental en Brasil, así como sobre su histórico político, tanto aquel generado por los profesionales de salud así como por los movimientos sociales de los usuarios. Se sostiene que los Movimientos Sociales por la Salud Mental pueden ser entendidos como una respuesta individual e institucional para la disminución de la producción de las desigualdades y discriminaciones importantes para construir un camino de una sociedad más inclusiva.

¹I am graduated in Public Policy Management at the University of Campinas (Unicamp) and Master of Science at São Paulo University (USP) focused on Public Health. Currently, I am a Ph.D. candidate at the Human Rights Programme of the University of Coimbra, Centro de Estudos Sociais, researching the Public Health and Mental Health field.

“Appalling, dreadful, inhumane — the worst of words pile on each other to name the horrors of being shunned, isolated, and deprived of the most basic of human rights.”
(ARTHUR KLEINMAN; THE LANCET, 2009, p.603)

W INTRODUCTION

Who are the people we don't want to speak about? Brazilian society still has places where the established concept of human by Human Rights Standards seems not to be reaching. The so-called "legal asylums" or "judiciary asylums" are places that aggregate not only the "lunatics" but those with mental disorders that have also committed a crime, the felonious. As a consequence of these two main attributes, most of the time such persons are not remembered or considered worthy of being advocated for, let alone being treated or taken care of. They are victims of moral judgment.

With this in mind, this essay is focused on constructing a critical engagement with the Brazilian Mental Health issue, through the analysis of judiciary asylums, in the aim of contributing to the epistemological aspect of the mental health scenario and to the emancipatory disability research.

In addition, I intend to discuss a mix of theoretical notions and paradigms about the Brazilian mental health struggle, as well as the political and historical background of mental health professionals and patients' social movements. Even though social movements are within the realm of collective action, Mental Health Social Movements can also be understood as an individual and institutional response once its agents are responsible to counter the production and reproduction of inequalities and discrimination and create a path towards a more inclusive society.

The technical term that is used in the legal sphere is Hospital of Custody and Psychiatric Treatment. However, as we will see in the course of this essay, in the literature, many researchers use the 'judiciary asylum' term, once these institutions are far from being regarded as hospitals that treat people in need of psychiatric care (CARRARA, 2010). Therefore, I politically position myself and make the ethical choice to refer to these institutions as judiciary asylums, since I understand that the word 'asylum' leads us to degrade ideas and images of human beings, and I remain committed to continuing the fight against their permanence.

Judiciary asylums are complex institutions that can articulate two of the most depressing realities of modern societies - asylum and imprisonment for the "lunatics" on the one hand - and, on the other hand, two of the most tragic phantoms that persecute all: the criminal and the maniac.

However, before we start this discussion, it is necessary to revisit the history of Brazilian mental health and the scenario of anti-psychiatry.

A BRIEF HISTORICAL BACKGROUND OF THE BRAZILIAN MENTAL HEALTH AND ANTI-ASYLUM STRUGGLES

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 cruelties that a human being perpetrates on another human being in a vulnerable situation (CARRARA, 2010). Psychiatric hospitals have always been places of segregation, not only for people with a psychiatric diagnosis, but also for several social segments that were marginalized, and for which the State did not have social public policies. These establishments were also considered a "depository" of people and due to the inmates' invisibility, they were often subjected to torture throughout lobotomy and electroshocks, as well as facing violence by employees (AMARANTE, 1998).

In 2009, the journalist Daniela Arbex began her research to uncover what happened for decades in Colonia Hospital, Barbacena (Minas Gerais, Brazil) since its founding in 1903. The results formed her book *The Brazilian Holocaust*, published in 2013 and it showed that inside at one of the largest hospices in Brazil, people rejected by society were abandoned and suffered all sorts of deprivation and violations of their human rights.

The author states that at the Colonia Hospital, some people who were admitted did not even need psychiatric treatment. The Hospital's documents contain the record of patients whose only symptom was sadness, shyness. The lack of hygiene favored the presence of rats, food was scarce and there were no beds: patients slept in straw piles, which were also where they carried out their physiological needs. Patients were under electric shocks and lobotomies, an archaic, violent and unmerciful surgical method. There was no hope, most of the people interned in the Colonia only left there when they died, while those who arrived healthily, eventually became ill due to the cruelty and conditions to which they were submitted.

In 1979, the Italian psychiatrist Franco Basaglia² 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 had 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 Silveira³ She 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 of Italian psychiatry 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 hostel 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 in 1990) was born of social movements and was not a parliamentary emend, it really emerged from a popular struggle, and is perhaps the only such example in the Brazilian Constitution.

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 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 2019⁴.

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-

nisms. He created a draft law (n. 3657 of 1989) that brought the struggle of psychiatric reform to the legislative and normative levels. But only after 12 years was this law approved by the National Congress and Federal Law 10.216/2001, also called the Paulo Delgado Law, was created. This law provided a gradual replacement of mental hospitals with medical equipment, regulating compulsory psychiatric hospitalization and redirecting patients into a new care model in mental health (BRASIL, 2013).

It was through the intense struggles of workers, patients, and families that law 10.216/2001 was approved, aimed at protecting the rights of people with mental disorders and contributing to diminishing the stigma. Mental health stigma often indicates that the persons who suffer from a mental disorder are “dangerous, likely to infect or otherwise harm others, that they are incurable, and that they are of little or no value to society” (BELDIE, 2012).

The stigma and prejudice about mental illness have always been very negative and cruel to the person in mental suffering, due to the fact that for a long time, these people were considered less than human, seen as not-enough citizens and therefore not deserving of humanized treatment. However, the Psychiatric Reform movement contributed to advancing the legitimation of users of mental health services, fighting for the individual to be the protagonist of their own history and co-manager of their life, returning their notion of human dignity that was stolen by the asylums (ARANHA E SILVA 2012).

Mental health had an important contribution to the discussion of law and citizenship for the mental service user, it brought something quite innovative; that is to consider the autonomy of these subjects. People hitherto considered mad and unable to manage their own lives were cast in the mental health system, to now act as protagonists of policies and play a role in building and participation. This is the general principle of this proposal, which is not only a plan of services organization for optimization and efficiency, it is also about political participation, social integration, and citizenship.

DID THE PSYCHIATRIC REFORM COME TO THE BRAZILIAN JUSTICE SYSTEM?

The worst of the psychiatric hospitals and the worst prisons. This is how a report of the Federal Council of Psychology made in partnership with the Brazilian Bar Association (OAB) and Public Ministry defined the Brazilian judiciary asylums. The Brasil Report 2015, published in 2015, denounced the cruel reality of the institutions that complied with the strict security measures in the country, which contribute to preserve the mental illness stigma, the belief that these individuals are the personification of evil, criminals and uncontrolled, crazy ones that deserve to be locked away, forgotten, and left to their own devices.

The judiciary asylums were built in Brazil gradually, as an active intersection of disciplinary powers (medical and legal), and in 1921 the first of them was inaugurated in the city of Rio de Janeiro⁵. In Brazil, it is in such institutions, which are maintained through security measures, where individuals who, by suffering some kind of illness or mental disorder, are considered criminally irresponsible for any crime or offense. It is there that prisoners who go crazy in prisons are also sent (CARRARA, 2010).

The patient/prisoner once labeled as a mental patient is obliged to assume the role not only of a criminal but also of a sick person. They are doubly violated and objectified until they become the hybrid object that the pathological and penal process constructs. The lack of a future perspective, the permanent condition of being at the mercy of others without the slightest personal initiative, and rules of behavior and schedules dictated solely by organizational requirements do not take into account the unique individual and the circumstances of each one. All of this composes the institutionalizing framework on which asylum life (penal/psychiatric) is articulated (CARRARA, 2010).

The 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, 2015).

Resulting from the merger between the psychiatric asylums intervention techniques and the criminal enforcement of the State of perpetrators of crimes who are considered as having mental disorders, the judiciary

² Influential Italian psychiatrist and considered by WHO as a world reference for overhaul the mental health care.

³ Medical psychiatrist and director for 28 years of the Sector of Occupational Therapy and Rehabilitation (STOR) in the Psychiatric Center Pedro II (1946-1974).

⁴ ABRASCO – Associação Brasileira de Saúde Coletiva. Available in: <https://www.abrasco.org.br/site/outras-noticias/movimentos-sociais/conselho-aprova-conferencia-nacional-2019/32537/> (Accessed: June of 2018).

⁵ From the 1903 legislation, in the midst of the reforms introduced in the Hospice Nacional de Alienados, located in Rio de Janeiro, a special section was created to house the “crazy criminals”. Significantly, the section was dubbed the “Lombroso 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).

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).

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,⁶ 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 became worse due to the absence of lawyers and by the low proportion of health professionals in relation to security agents. In the segregation manicomial system there is no access to justice because of the lack of lawyers to represent the prisoners/judicial patients⁷. In one institution, seen as the most of segregated, with the worst of the stigma, of the 18 units inspected, only in 3 of them had a lawyer present. Therefore, it 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 to 410%. There are still no riots or rebellions, a sign that the containment medication has been working. 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 mental 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).

Through 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 from 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 manicomial 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.

⁶The myth of presumed dangerousness is found in the examinations for the termination of dangerousness, although the presumption of dangerousness has been legally swept since 1984. The OAB itself understands that dangerousness is an indefinite and indefinable concept.

⁷It is important to notice that the lack of justice due to the absence of lawyers, unfortunately, is a common problem of the Brazilian prison system. However, this fact rates at the judiciary asylums as the prisoners are under the mental health stigma and is twice under prejudice and forgotten.

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 embedded with input 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 politicisation 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 researches in this field (ARANHA E SILVA, 2012).

In these contexts, the politicisation 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 asylums), 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, Pirou”, 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 18th). 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 if 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. What we are facing today in Brazil is a real setback of several rights that have taken years and years to be conquered and transformed into public policies, and mental health policy reforms are at risk.

In the mental health field, the political crisis settled in December 2015, with the appointment of Valencius Wurch Duarte Filho to the National Mental Health Coordination of the Ministry of Health. Several entities of the anti-asylum movement signed a public note against his designation, once Valencius had been the director of the largest private psychiatric hospital in Latin America, Casa de Saúde dr. Eiras of Paracambi, in Rio de Janeiro.

An intervention carried out by the Public Prosecutor's Office in 2004 detected serious violations of human rights in this psychiatric hospital, such as the systematic practice of electroshocks, the absence of clothing, insufficient and poor-quality food, and long-term hospitalizations. As a consequence, the asylum began to close down its activities in 2009 and was finally shut in 2012⁹.

On that occasion, Brazil's House of Representatives, there was also a reaction against the name of Valencius with the launch of the Parliamentary Front in Defense of the Psychiatric Reform and Anti-Asylum, coordinated by Mrs. Erika Kokay from PT (Workers Party, the same party as ex-president Dilma). In addition, members of civil society, organized by anti-asylum struggle militant activists, family members, and service users performed various demonstrations throughout Brazil, one of which was the occupation of the national coordination of mental health policy room, in the building of the Ministry of Health, Brasilia, for more than 60 days¹⁰.

All these reactions were crucial for Valencius to be exonerated from office in May 2016. However, due to Brazilian political chaos following the departure of Dilma, the coordinator of mental health position remained vacant until February 2017, with the appointment of Quirino Lamb. The psychiatrist Quirino Cordeiro Junior is the current General Coordinator of Mental Health, Alcohol and Other Drugs of the Department of Strategic Programmatic Actions of the Health Care Secretariat of the Ministry of Health.

Contradictory to his trajectory as coordinator of the technical inspections of the São Paulo State Custody Hospitals (which could have sensitized him to some of abuse and violations of human rights of patients/prisoners), Quirino puts efforts into returning to the psychiatric model asylum. Since his appointment, the expansion of beds in psychiatric hospitals in Brazil on behalf of the effectiveness of treatment is being discussed (the productivity logic meant that hospitalization is synonymous with health). Along with the Minister of Health, Ricardo Barros (PMDB), they have a twisted logic about mental health, believing that occupancy of beds for mental health at general hospitals is very small and therefore, it is necessary to increase the number of inmates.

Quirino's designation is not a naive or unwise choice, but a conscious decision, because he is an explicit and stated opponent of Psychiatric Reform. Thus, there is an awareness about the financial risk that the Psychiatric Reform policy represents for certain segments of the private sector that think of health as a market and want to put a brake on deinstitutionalization movement.

⁸ The Unified Health System (SUS) buys beds in clinics and/or psychiatric hospitals.

⁹ Journalism article available at <https://extra.globo.com/noticias/rio/em-crise-hospital-psiquiatrico-de-paracambi-passa-ser-administrado-pela-pre-feitura-15273226.html> [Accessed June 18th, 2018].

¹⁰ Journalism article available at <http://www.vermelho.org.br/noticia/276526-1> [Accessed June 18th, 2018].

Beside this, it became clear that it is the stigmatization of mental illness and of all that is related to it (institutions, health professionals, medicalization) that justify the reluctance of decision makers (public agents - government) to invest more in mental health care. A survey conducted in 14 midsize European countries showed that mental health programs suffer from a chronic lack of resources and that the financial support was often symbolic and without constancy (the budgets hover around 2–3 % of the overall healthcare expenditure in most countries of the world). The research also showed that fighting against stigmatization is essential to develop mental health care and to improve the quality of life of those people who are in suffering, and therefore, this struggle includes empower the subject, their families educate the healthcare personnel's (BELDIE et al, 2012).

Mismanagement of financial assets allocated to municipalities in order to create new Psychosocial Centers (CAPS) and outpatient care, as well as the expansion of professional staff, is a very serious problem. It means that public money which comes from the SUS does not have the correct destination. Nevertheless, among all these identified shortcomings, what caught greater attention from the managers was the 'low' quantity of occupancy of psychiatric beds in general hospitals.

Situations like this show how mental health continues to be in constant field dispute, and bureaucrats who, by the Brazilian democratic system, have the legitimation and the duty to create affirmative actions aimed at the rights and citizenship of the users, do not display the least interest learning about the Psychiatric Reform movement, as well as the Antimanicomial Struggle, its principles, values, and benefits derived from rights hitherto conquered.

KEEP BURNING THE FLAME OF HOPE

As we can see, psychiatric hospitals rely on traditional treatment methods based on medicalization and isolation of the patients. The great interest of the resistance groups that defend the permanence of the old psychiatric treatment model is economic and financial. They are the owners of psychiatric hospitals that for decades, have these institutions as an income source, providing services with the low regulation of the public sector.

A Portugal research published in 2013, called National Epidemiological Study in Mental Health proved that there is a 'treatment gap' between the objective necessities among people with mental disorders and the real and actual responses available in the health system - in terms of access to care and emphasis on prevalence rates. In addition, in 2015 the Portuguese Society of Psychiatry and Mental Health also published a study saying that the poor funding model is responsible for the failings in responses to the mental health necessities of the population (MARQUES, 2017).

There is a risk of that the Psychiatric Reform law become a merely another norm that reinforces other social inequalities and stigma, if it is only understood as one of many tools that organizes principles of equality, gradually deinstitutionalizing the patient and prohibiting the construction of new beds, without building substantially new treatment devices and new responses to social inclusion that really contribute to the reconstruction of human dignity of the people with mental suffering, by constructing strangers as beyond the scope of society's concern. The closing of psychiatric hospitals needs to be carried out along with real community-based alternatives (MARQUES, 2017).

Brazil is going through constant movements of setbacks for human rights, the State that it is (theoretically) considered the most appropriate entity to protect and care for its most vulnerable individuals in a humanized way, is more interested/engaged/concerned with providing even more profit to the large entrepreneurs who are behind these psychiatric institutions.

Therefore, it is in the midst of this current and deplorable scenario that we wonder how we could move forward in relation to judicial asylums. Human rights will only be observed in the asylum system in an authentically democratic society where respect for the dignity of the human person and the guarantee of freedom, justice, and fraternity among citizens are affirmed as fundamental values. However, even if this society one day appears, it will not necessarily mean that people with mental disorders that committed a crime and are kept in asylums will receive individualized treatment based on their vulnerabilities because be kept in asylums cannot consider psychological treatment.

If the concern is treating these people and provide to them a psychological attention, it has to be understood that people with mental disorders need to be treated outside the asylums, need to reconstruct their community

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)¹¹.

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).

Responses were 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

¹¹ Original text: Gostariam de ser tratados como seres humanos, mas são tratados como bichos, conforme relatos dos pacientes. Não têm qualquer contato no sentido de tornarem a participar das cidades, jamais recebem visitas; muitas vezes porque mataram algum familiar e a própria família não procura ou se nega a estabelecer contato.

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 inhumane 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 history 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 the 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, due to its construction made by patients, their families, health professionals, academic researches, 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.

REFERENCES

AMARANTE, P. Loucos pela vida: a trajetória da reforma psiquiátrica no Brasil/ Crazy about life – Trajectory of Brazils Psychiatric Reform. Rio de Janeiro, Fundação Oswaldo Cruz, 1998.

ARBEX, D. Holocausto Brasileiro. São Paulo: Geração, 2013.

ARANHA E SILVA, A. L. A construção de um projeto de extensão universitária no contexto das políticas públicas: saúde mental e economia solidária. 2012. Tese (Livre Docência em Saúde mental e economia solidária) - Escola de Enfermagem, Universidade de São Paulo, São Paulo, 2012. Disponível em: <<http://www.teses.usp.br/teses/disponiveis/livredocencia/7/tde-23112012-092937/>>. Acesso em: 2016-08-09

BASAGLIA, F. Escritos selecionados em saúde mental e reforma psiquiátrica. Rio de Janeiro: Garamond, 2005. Org. Paulo Amarante. Capítulo 1: A destruição do hospital psiquiátrico como lugar de institucionalização.

BARNES, C. 2003. “What a Difference a Decade Makes: Reflections on Doing ‘Emancipatory’ Disability Research.” *Disability & Society* 18 (1): 3–17.

BELDIE ALINA. et al (2012). “Fighting stigma of mental illness in midsize European countries”. *Social Psychiatry and Psychiatric Epidemiology*, 47 (Suppl. 1) 2012:1–38.

BRASIL. Conselho Federal de Psicologia. Inspeções aos manicômios, 2015.

BRASIL. Ministério da Saúde (Internet). Brasília; 2013. Disponível em: <www.saude.pr.gov.br/arquivos/File/RAPS.pdf>.

CARRARA, S. L. A história esquecida: os manicômios judiciais no Brasil. *Rev Bras Crescimento Desenv Hum.* 2010; 20(1): 16-29

FONTES, F.; S. M., B.; HESPANHA, P. (2014), “The emancipation of disability studies in Portugal”, *Disability & Society*, 9, 6, 849-862.

GOFFMAN, E. Manicômios, prisões e conventos. São Paulo: Perspectiva, 1992.

KLEINMAN, A. The art of medicine. *Global mental health: a failure of humanity. Lancet.* 2009; 374(9690):603-4.

MARQUES TIAGO. P. (2017). The Policy Gap. *Global Mental Health in a Semi-Peripheral Country (Portugal, 1998-2016).* *Interface. Comunicação, Saúde, Educação*, 21 (63), 2017: 787-798.

WHO. 2001. *International Classification of Functioning, Disability, and Health.* Geneva: World Health Organization