

## GROWINGLY EMPTY, GROWINGLY FULL: DRUG POLICY REFORM IN BRAZIL

Marcelo da Silveira Campos (\*)

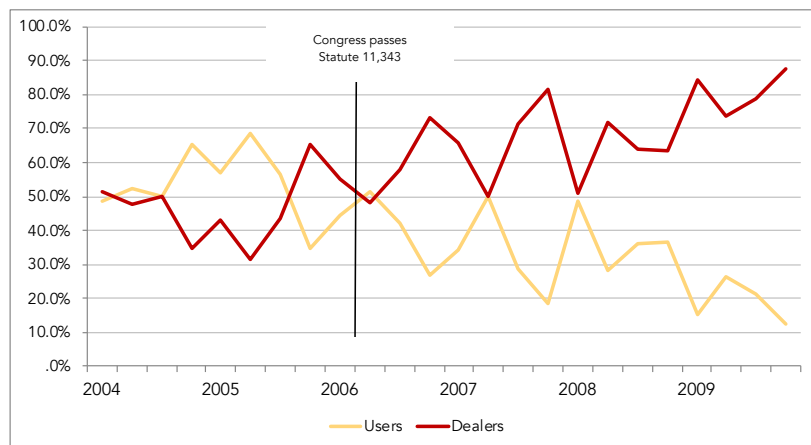
In 2006, Brazil adopted a new drug policy – the National System for Drug Policy. This reform was based on two essential ideas: ending prison sentences for drug users, who should be redirected to the public health system<sup>(1)</sup> based on the harm reduction paradigm; and raising the minimum sentence for drug dealing from three to five years, with the goal – as declared by members of Congress – of cracking down on drug dealing and gangs such as Primeiro Comando da Capital and Comando Vermelho, which were on the rise in the 2000s. These two were the main justifications for the National Congress to approve a new drug law in Brazil (Campos, 2019).

The reform's effects, however, directly contradicted these objectives. According to data from the National Penitentiary Department, after the new statute went into effect, the percentage of inmates charged with drug dealing went from 13% to 30%. This directly contributed to the escalation of incarceration rates in Brazil. But those sent to prisons were not in the higher echelons of criminal organizations. Instead, most of the incarcerated were urban, poor, black, young men and women.

Based on quantitative data and analyses of drug arrests and convictions for the city of Sao Paulo pre and post reform, I conclude that the 2006 Brazilian drug policy must be best understood as an amalgam of a universal and a hierarchical logic (Lima, 2001), which directly contributes to unfortunate outcomes in mass incarceration (Wacquant, 2009).

Using temporal series (Campbell, 1969) and regression models, I found that the likelihood that a random individual walking on the streets be treated in the criminal justice system as a drug dealer instead of a drug user increased fourfold compared to 2004, before the new statute was put into effect. Illiterate and people with incomplete middle school education were 3.6 times more likely than the rest of the population to be defined as drug dealers rather than users. Women and inhabitants of poor neighborhoods were twice as likely to be arrested as drug dealers.

Still, according to my regression model, the amount and type of drug apprehended are not significant in someone's designation as drug dealer or drug user by the justice system. More important in this designation, instead, is the person's social origin (Bourdieu, 1984). A well-educated individual, living in more affluent neighborhoods will be rarely deemed a dealer (among the 1,256 individuals considered in my research, this happened to only 34 college students or graduates).



Graph 1. Defendants found guilty of being users/dealers, 2004-2009.

Source: Author's elaboration based on data from the São Paulo public safety department.

Examining 779 police reports that specified the type and amount of drug apprehended, I also found that 404 mentioned between 0.01 and 7 grams. Hence, many individuals – invariably in poverty – have been incarcerated with small amounts of drugs. Meanwhile, upper class individuals involved in the drug use, drug dealing chain are left untouched by the criminal justice system.

Brazilian prisons continue to be filled with poor, young, black people. Many of these could well qualify as drug users and take benefit from the new drug policy. Yet, as my findings demonstrate, the criminal justice system punishes or acquits based on moral and social standards, which define who is a user and who is a dealer, regardless



of the actual infractions committed. The new statute allowed for the continuation of social practices that dictate different standards (Alvarez, 2002) based on class and race and in which social injustice and legal inequality reinforce one another.

Loopholes in the statute, which did not establish objective criteria to distinguish between drug users and drug dealers, may have contributed to these outcomes. But the problem runs a little more deeply. Even if the statute included advancements in individual rights and legal protection, these were skewed by the translation into law of social and racial inequalities in the country. Budgetary reductions in the national public health care network are only bound to worsen the situation<sup>(2)</sup>. The unfortunate result is a policy whose public health half is growingly empty, while its prison half is growingly full.

Wacquant, L.J.D. Prisons of Poverty. Minneapolis: University of Minnesota Press, 2009. Print.

*This publication was produced at no cost to the taxpayers of the state of Oklahoma. The University of Oklahoma is an equal opportunity institution. [www.ou.edu/eoo](http://www.ou.edu/eoo).*

## Notes

(\*) Original submission in Portuguese. Translation by Leticia Galizzi.

(\*\*) PhD in Sociology (University of Sao Paulo), Associate Professor at the Federal University of Grande Dourados (UFGD). Visiting Professor at the University of Sao Paulo's Medical School (INCT-InEAC/UFF).

<sup>(1)</sup> Article 28 of Statute 11,343, from 2006, eliminated prison sentences for drug users, but still considered drug use a crime and allowed for sanctions: a warning against the harmful effects of drugs; mandatory community service; and mandatory participation in reeducation programs. The law did not stipulate the type and amount of substances that one should bear to be deemed a user and not a dealer. See particularly Campos (2019).

<sup>(2)</sup> Statute 13,840 from 2019 drastically curtailed the expansion of the public health care system for drug users. The effects of that deterioration in the system that attends drug users have not been assessed yet.

## References

- Alvarez, M.C. A criminologia no Brasil ou como tratar desigualmente os desiguais. Dados, Rio de Janeiro, 2002, vol.45, no.4, p.677-704.
- Bourdieu, P. Espace social et genèse des "classes". Actes de la recherche en sciences sociales, Paris, v. 52-53, juin, p. 3-14, 1984
- Campbell, D.T. Reforms as experiments. American Psychologist, n. 24, p. 409-429, 1969.
- Campos, M.S. Pela metade: a lei de drogas no Brasil. São Paulo: Annablume, 2019.
- Kant de Lima, R. Cultura Jurídica e Práticas Policiais: a tradição inquisitorial. Revista Brasileira de Ciências Sociais, São Paulo, v.10, n.4, p.65-84, jun. 1989.