

Chapter 3

Social Effects of Prohibitionism in the Americas and New Drug Policies

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Abstract The prohibitionist complex is still powerful and multiform. Despite the evil it has been proved to unleash, avoiding it is a tough task. On the one hand, this article focuses on the persistence of prohibitionism in Uruguay and the violence (both statal and interpersonal) that it inflicts on the most vulnerable drug users. On the other hand, it discusses the historical reasons why Uruguay has to challenge the prohibitionist complex and describes the specific civilizing path that resulted from other efforts to modify drug policies. In Uruguay, alcohol and prostitution have historically been regulated and controlled by the State, with an approach that has privileged public health rather than moral considerations. By contrast, challenges to prohibitionism are more market-centered in the United States than in Uruguay. Prohibitionism is in decline in both cases, either by direct state action or by regulation through the production of a legal market and taxes.

3.1 Introduction

This chapter focuses on the social effects of prohibitionism and the ways that different societies, with different civilizing processes, have found to abandon such a paradigm.

First, I define prohibitionism as a transnational complex that assembles different beliefs, interest groups, legal instruments, and institutions that fight for the elimination of any use of drugs that they define as illegal according to criteria defined over time, but inevitably rooted in the ethnocentric conceptions of early twentieth-century progressivism (Courtwright 2014).

Second, based on ethnographic experience, I focus on the drug policy of Uruguay, which is a country marked by a civilizing process that has made the State the guarantor and protector of the individual in different dimensions, especially regarding health. More progressive than liberal, the Uruguayan state has taken over the regula-

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tion of cannabis with the idea of protecting the health and safety of citizens. Analyzing the case, it is notorious that the country has preserved, and even radicalized, elements of the “War on Drugs” and that the greatest efforts have been directed to fighting against cocaine base paste supply. Meanwhile, the cannabis market has been regulated through bold legislation that has defied the international drug control regime and the very core of the prohibitionist complex.

Third, I compare the Uruguayan case to the American case. In the USA, the civilizing process is liberal and mostly Protestant. The prohibitionist complex is rooted in the protection of individual freedom that characterizes some states, and it has been interwoven with criticism about the high costs of the War on Drugs (Brumm and Cloninger 1994; Friedman 1991). Thus, in some states, formulae that protect the individual rights of consumers and provide them with regulated market access to cannabis flourish. According to well-reputed neoclassical economists, this is the best way to regulate substances (Becker et al. 2004). Oscillating between puritanical prohibition and liberal regulation through the market, the US federal government keeps a prohibitionist system of international control over the rest of the world. Meanwhile, in many of its states, citizens defend their liberties through referendums and the federal government can do little to prevent them. (Thoumi 2013). Eventually, as the drug normalization process continues to grow (Martínez Oró 2015), it is possible to visualize a large part of the US population making use of cannabis legal (Graham 2015).

3.2 Moralism, Hygienism, and Drug Policies

Alcohol and other drug policies have been marked by a century of controversy. I do not intend to dwell on this history, but instead to focus on an issue that has been the moral and ideological basis of drug policies since the late nineteenth century: improvement of the human species from different perspectives. One of the historical bases of prohibitionism had its origins in the leagues that had fought since the nineteenth century, mainly in the USA, against the consumption of alcohol and against other “social vices,” including prostitution. These groups added a moral and religious dimension to the evidence that supported the advance of hygienism (Levine and Reinerman 1991). At that time, the USA and Uruguay devised different solutions to the same problem. While Uruguay tried to regulate health risks from an active State initiative, in the USA the debate was between prohibition and freedom. Uruguay regulated prostitution and the production of alcohol, whereas in the USA the Puritan solution prevailed, first in communities where the party supporting prohibitionism had greater influence, and then in the whole country. In Uruguay, there is still a consensus regarding the need to defend public health from threats of risky consumption, and the current solution is still based on regulation with a strong presence of the State.

From the moral point of view, prohibitionist policies defend a free human against alienation. This modern ambition, which combines with an opposition to ideological conceptions (although being quite paradoxical), has served to protect actual women and men but also to reduce their spaces of freedom and push them to maximum

alienation when taking any decision. Until the 1980s, within both capitalism and Soviet communism, it was agreed that it was necessary to ban certain substances that were not prescribed by doctors. This showed a world that was bipolar in many aspects, but absolutely hegemonic in the model of mental health imposed on the inhabitants of the planet (Wiseman 1985). This unipolarity of the hegemonic medical model was challenged from within the medical field as well as from the outside. The countercultural revolution initiated in the 1960s in the West called the model into question, especially regarding what was referred to as drug use. This countercultural revolution resulted in a number of new rights regarding both individuals and ethnic communities.

Also in the 1960s, in parallel to the countercultural revolution taking place, theoretical perspectives were being broadened. The focus of the reflections about contemporary societies shifted to social class; moreover, ethnic-racial and gender issues were incorporated in order to understand and face inequalities.

Nineteenth-century eugenics sought strong healthy workers within racially and ideologically pure national spaces. After World War II, the defeat of Nazi fascism, the massive access to the world of work by women, and the process of decolonization created the conditions for a global expansion in the rights of individuals and put a brake on certain ambitions for “improvement” of the species. Nonetheless, the United Nations (UN), the instrument for strengthening human rights around the world, quickly became polarized and plagued by regional conflicts. The UN also became the arena for discussions on how to expand and guarantee rights while controlling planetary security by having weapons capable of mass extermination. The countries with the greatest extermination capacity established themselves as permanent members of the UN Security Council and began to arbitrate in different conflicts. The board had two heads, the USA and the Soviet Union. On the positive side, the USA could represent the ambition of universal individual liberty while the Soviet Union could account for the ambition of real equality. The universalist revolutionary triad of liberty, equality, and fraternity, with different emphases, was well represented and had won the war against Nazi particularism. With certain fraternity, the different peoples of the world could aspire to configure humanity.

The development of the Cold War is a story with a known end: For the sake of a *realpolitik* charged with particular interests, the USA supported regimes such as Latin American dictatorships that flagrantly violated freedom. Meanwhile, the Soviet Union also did so, corrupting regimes that were based on the most violent inequality. Through five decades, the so-called Cold War prompted extremely bloody wars, missile crises, revolutions, and attacks of all kinds. However, in some cases consensus was achieved. It was often produced by the field work of transnational agencies, which had their own economic resources and agendas that did not affect the issues of controversy between the superpowers. The prohibition of drug use and exchange was one of the exceptions and it stretched over the pre- and post-Cold War periods. Such measures were the fruit of the association of breeder selectors and moral entrepreneurs, who disseminated a drug biopolitics propaganda based on two fundamental pillars: the hegemonic medical model (Menéndez 1985) and Puritan morality (Morone 1997), which had its communist correlate in the

search for the “new man” (Wiseman 1985). For such types of moral subjectivity, drugs are not admissible (i.e., those drugs not allowed by their respective cultures).

Regarding the Uruguayan case, the Cold War influenced shaping of the “drug problem” through the creation of a specialized police unit, at a time when the authorities of the Uruguayan dictatorship supported by the USA did not consider the *drugs* as a relevant issue. In the context of Nixon’s push for the War on Drugs, US officials encouraged the creation of a Uruguayan antinarcotics police unit based on the intelligence department. Even though the 1974 Uruguayan legislation had not criminalized the use of any of the substances prohibited by the international antidrug system, the victims of that police unit started to appear shortly after (Castro 2015).

In any case, the USA had already benefited from a fertile ground associating the puritanism momentarily in office with the (bio)politicians of the early twentieth century, and bringing such conjunction to a radical extreme in the concept of a “Dry Country.” The prohibition of alcohol only lasted the brief period it did because it quickly damaged the health of problematic users and the good manners that it wanted to protect, but also because it favored an exponential growth of organized crime. Moreover, it was a failed policy because it affronted the beliefs of several ethnic Caucasian groups that lived in the USA and had been gaining significant political and social power (Musto 1999). Regarding other drugs, the prohibitions could be maintained because offenses were legitimized by racism. The prohibitions remained untouched because racism itself was one of the foundations (Lusane and Desmond 1991).

Likewise, the prohibition of drug use affected mainly those subjects who had previously been unequally treated and structurally displaced: the poor, the non-whites and, during some years, the women. Throughout the Americas, prisons are filled with drug traffickers, which shows how effective prohibitionism is in generating both state violence and violence within society. It triggers both internal violence within the illicit market and symbolic violence against drug users. In some social contexts, in addition to stigmatization, drug users receive the punishment of criminalization and the violent responses that are systemic to the illicit market.

Prohibitionism punishes differently according to the country, but in the most precarious circuits of the illegal market, lives of the poorest of all nations turn equal. For most of the subjects involved in the traffic circuits, prohibitionism produces as much violence as precarious economic opulence. The circulation of money and certain objects of consumption do not guarantee improvement in the lives of the poor, but there is an exponential increase in violence in their communities and in their relations with more violent and, in some cases, more corrupt states (Auyero et al. 2014).

In geopolitical terms, there are some differences between the diverse impacts of prohibitionism. In the richest countries, most of the drug-related deaths are due to overdoses and problems derived from illicit drug consumption. Meanwhile, in Latin American countries, the inverse is true, with violent deaths being much more systemically related to the illegal market than those caused by the use of drugs. This does not mean that there is no state violence towards users or systemic violence among traffickers in rich countries, the key point is that state sovereignty is more precarious in weaker states, impunity is greater, and state violence is bloodier. The

wars against drugs initiated in the 1980s made first Colombia and then Mexico, as well as other countries and regions of other Latin American nations, the scenarios of incremental state violence. Because an increase in state violence usually corrupts officials and corrodes institutions, violence and impunity go hand in hand.

I could see in the field that the higher the radicalization of state violence against drugs, the more disastrous the results are. Both negative consequences increase; the production of criminal violence increases and the social suffering of illicit substance users also deepens. A policy that was established to protect public health has ended up increasing pain and worsening the indicators of criminology.

Focusing on the case of users of cocaine paste base can help in understanding these sufferings as well as the worsening of data related to criminal violence. In Uruguay, a country that has undertaken a historic change in the way of dealing with drug policy, we can see the complex courses of action that prohibitionism takes in the multiform framework of its decline. Relating the persistent prohibitionist approach to the use of cocaine paste base and the almost opposite approach to the use of cannabis offers us a “live” laboratory of the drug policies that are currently being implemented.

3.3 Drug Policies in Uruguay

The Uruguayan case is interesting because it is a Latin American country that is not characterized by extreme poverty, extreme criminal violence, or having a weak state. However, certain sectors of the metropolitan area of Montevideo that are endemically affected by abject poverty experienced a significant increase in population between the 1990s and the crisis of 2002. These areas thus became the scenarios of cocaine base paste consumption and marketing, and of the systemic violence associated with trafficking of the substance.

The market for illicit drugs in Uruguay is notoriously fragmented regarding the drugs and their different uses. Cocaine base paste and synthetic drugs are substances consumed by people with very different trajectories; they do not come across each other, either spatially or socially, and even participate in completely detached markets. In the middle- and upper-class neighborhoods of Montevideo there are synthetic drugs users, but users of cocaine base paste are almost non-existent. By contrast, in the lower-class neighborhoods of the city, there are not many synthetic drugs users but many more cocaine base users. Synthetic drugs are associated with users who enjoy a kind of extended youth and recreation in electronic parties; they are people with university degrees and participation in the labor market. The substances come from Europe through networks that link the users without generating major conflicts. In the drug use care records, the contact is usually listed because of some isolated intoxication. (Rossal and Suárez 2016).

In contrast, cocaine paste is carried in trucks from the Andean heart of South America. Its users, in general, have been consuming the substance for many years and often do not have the capacity to pay for it. Every day, they experience conflictive

situations with the police, the traffickers, and their neighbors. They are the most stigmatized subjects of the working class neighborhoods and usually cannot keep their jobs, which are certainly informal or even part of the illegal market. These are people who have had less than 7 years of formal schooling (60%), who have lived on the streets and in shelters (30%), and have had contact with the penal system (50%) (Suárez and Ramírez 2014). Many cocaine base paste users have undergone a treatment process, which often complies with forms of institutional violence such as the asylum or therapeutic community models that involve physical confrontation, punishment, and experiencing the “therapeutic” action of stigma. The average age of the cocaine paste base user population has increased, which suggests that there are few new users and that this market has stopped growing (Suárez and Ramírez 2014).

The exchange of cocaine base paste occurs in a context of extreme violence, in which users of the substance, traffickers, prisons, agents of the penal system, legislation, political speeches, and journalism are assembled. The stigmatizing discourses find an agent in the punitive inflation and end up punishing drug users. Through my research, I have been able to appreciate firsthand the corporeal and emotional punishment that everyday cocaine paste base users suffer and how this sanction is directly related to prohibitionism and the application of a punitive approach to reducing the supply of drugs.

Uruguay’s drug policies have been understood as liberal and have been characterized as progressive.¹ But, a quick reading could lead to misunderstandings. Uruguay has been marked by an active State with an early social protection system, in which public health and the power of physicians was central (Barrán 1992).

Since the end of the nineteenth century, in addition to an increasing medical coverage, primary, secular, free, and compulsory education defined a kind of practical civil religion (Guigou 2003). It succeeded in producing a secular sense of social life within majoritarian sectors and conceiving a series of terrestrial rights to be guaranteed by the State, relegating religiosity to the private world and to intimacy (Caetano 2011).

In such a way, the Uruguayan state assumed massive social, sanitary, and educational tasks with almost missionary aims. The *Batllista* proposal of the State as a “shield of the weak” flourished in many different welfare areas and outlined what Milton Vagner (Vanger 1983) later called the “model country.” Uruguay, the best consolidated democracy in South America, had its foundation in secularism and social protection, as well as in the centrality of the power of medical doctors. Moreover, for a short period during the 1930s, abortion was allowed in the country. Although such legislation was enacted during a dictatorship, it was voted in by a parliament that had debated different visions of the issue; the eugenic and hygienist arguments had exceeded the religious ones, at least among the representatives of the dominant classes (Sapriza 2002).

Since the first decade of the twentieth century, a State entity had been projected to take charge of policies related to oil and alcohol (Martínez 2010). It sought to

¹<http://latitude.blogs.nytimes.com/2013/08/21/cannabis-country/>, <http://www.nytimes.com/2013/08/01/world/americas/uruguay-lawmakers-to-vote-on-legalizing-marijuana.html>

safeguard the country from the international oil trust and to protect the health of the population by producing alcohols as a monopoly. By doing so, the Uruguayan state regulated alcohol; meanwhile, the USA banned it. Faced with the same problem (“alcoholism”), the Uruguayan solution was far from punitive; it was based on a regulationist State.² The same had already been done with prostitution. In contrast to the extended Puritan prohibitionism and Anglo-Saxon liberalism, Uruguayan solutions were geared toward state protection.

The way that the young people who defend the individual right to smoke cannabis misunderstand the figure of José Mujica explains it clearly:

Marijuana consumers around the world hailed him. His face appears on T-shirts and paraphernalia with the iconic leaf and Rastafarian colors. But he says that the young people who congratulate him do not understand his intention: “Smoke-free, bullshit! It has nothing to do with freedom; for me, it is a security problem, it is against drug trafficking. I have rotted to explain it. But people want to hear what they think” (Müller and Draper 2017, p. 275).

Lawyers Diego Silva Forné (2016) and Pablo Galaín (2015) clearly explain that Law No. 19.172 on the regulation and control of cannabis is based on a model of user health protection (i.e., harm reduction), which was assumed by Uruguay during the first decade of the century. Beyond protecting the freedom of users to consume the substance, the ideas that underlie the Uruguayan legislation are rooted in the protection of health and public security as a challenge against illegal drug traffic.

During the twentieth century, Uruguay adhered to the different prohibitionist conventions, but despite the escalation of prohibitions on the use of certain substances (cannabis, coca leaf derivatives, and opium derivatives), the country maintained its profile: drug use is a matter of population health, and the use of drugs has not been explicitly criminalized since the 1970s. However, the forms of health protection of those times were highly tutelary and, of course, some forms of health care can (literally) imply various violations against fundamental rights.

²In the 1990s, during a neoliberal momentum in the region, the state monopoly on alcohol was repealed. During the parliamentary debate, progressivism defended the state monopoly of alcohol by arguing health protection. Senator Astori (current Minister of Economy and the main political orchestrator of the “progressive era” economic policy) pointed out at a Senate session on 24 October 1995, “It seems to us that what is at stake is a public or collective good. One of these the market cannot supply, so they must be generated by other means. I hold that control of an important part of public health is at stake, and this is a public good that the market does not ensure. I am going to support a good part of my argument on that subject, just as I did in the Constitution and Legislation Commission”. <http://www.parlamento.gub.uy/sesiones/AccesoSesiones.asp?Url=/sesiones/diarios/senado/html/19951024s0056.htm>

3.4 Between Harm Reduction, the Criminal System, and the Tutelary Disposition of the Progressive State

In 2004, Uruguayan drug policies officially assumed the reduction of risks and damages as a transversal policy for all state sectors, including those relating to sanitary, legal, or social protection. Based on such policy, the State began to call for proposals for social projects to deal with drug use and the new cannabis legislation.

However, beyond the official drug policy, practice is much more complex. A relational scenario was drawn by two oppositions: prohibitionism/decriminalization and abstention/reduction of damages. Although the dominant correspondence usually assimilates prohibitionism with abstention and decriminalization with damage reduction (Loeck 2014), the existence of “hygienist” models of harm reduction can also be seen in the ethnographic field, along with extreme abstentionism that supports decriminalization. Thus, these two oppositions, instead of narrowing the relational scenario, allow for a series of combinations and a complex and open classification that is difficult to define accurately. Moreover, the arena became more complex when associations of users or their relatives and families entered the scene.³

The emergence of user organizations had a clear public impact. In the case of cannabis users, they could fully tension the postulates of the official policies. Following Bourdieu (1997), these cannabis users were possessors of significant social, cultural, and even economic capitals; therefore, they could concur the agency of their efforts together with that of several national and international actors and achieve the approval of a law that protected them in their use of the substance. They attained such a goal despite adverse public opinion polls, divided medical opinions, and internal dissent within the governing party (Müller and Draper 2017). Certainly, some organized cannabis users and growers were able to place themselves at the center of the scene (i.e., in power) and they generated new demands to their left and new displacements toward the right. For instance, on the one hand, some users have refused to register themselves as growers; on the other hand, the detractors of the new law have been marginalized and considered part of the “conservative Uruguay,” as had happened with those who opposed other progressive laws of Mujica’s government (Arocena and Aguiar 2017). However, the new legislation protects all cannabis users and growers because, with certain restrictions, it detaches them from the criminal scope.

³Cannabis users’ organizations have been advocates of total decriminalization and harm reduction for the use of all substances, but associations of family members of users of cocaine base (the first that took public voice was significantly called “Mothers of the square”) have held a position of desperate extreme abstentionism, with an understandably tutelary but not criminalizing imprint. The Facebook page of “Madres de la Plaza” proposed on 26 November 2014: “Compulsive hospitalization of addicts in public and private centers under the care of qualified staff, under the close supervision of mothers and relatives; eradicate from the streets all those who, victims of this terrible disease, have become a danger to themselves, their families and for the whole of society; we propose the creation of treatment centers, therapeutic communities, farms, and special spaces intended for the rehabilitation and physical and mental recovery of the sick.”

As a counterpoise to organized cannabis users, cocaine base users are stigmatized; they have a negative symbolic capital. They lack any power and the legislation in force, especially that approved in the last period of government, does not establish protective measures but increases the punitive pressure over them.

3.5 Contradictions in Uruguayan Drug Policy? Other Scenarios for the War on Drugs?

Contradictions would be a mark of the country's drug policy if such duality – protection of socially integrated sectors and daily punishment of the poorest – was not a long-term trend in the country.

Let us examine this question in more detail. Concurrent with the cannabis regulation law, which was more protective and state-centric than liberal, increased penalties were imposed on trafficking cocaine base paste compared with trafficking of other illegal drugs under Law No. 19,007. According to the prosecutor Carlos Negro (2013), it is a “bad law”: “[...] not only because of the technical defects in its formulation but also because of its purposes, public policy for tackling a health problem such as abuse of illegal drugs.” Another jurist, Gianella Bardazano (2014) explicitly points out the contradiction of drug policies in Uruguay. However, this issue could be seen from a different perspective: the Uruguayan state follows a tutelary tradition in relation to its citizens, especially in what is referred to as public space, no matter the approach from which we understand the term “public space.” Although Law 19,007 increases the penal pressure on users of cocaine paste base because they are inevitably involved in the network of exchanges of the substance, Faults Law No. 19,120 affected them to a greater extent (based on our ethnographic experience). This is the legal instrument that allows daily police punishment to the *pastosos*,⁴ following an old tradition of punishment to the unfit poor.

Police violence increased in the USA as the effect of aggressive policing forms derived from the broken windows theory (Wacquant, 2010, 2012). In Uruguay, the Law of Faults increased the practical powers of police officers to coerce cocaine base paste users who spend every night on the streets and squares. Decriminalizing drug use does not guarantee that users will not be punished through the discretionary power of judges to apply legal forms such as “non-consumption tenure.” The case of decriminalization of drug use in Portugal was successful because it had a robust policy oriented toward the care of drug users (Hughes and Stevens 2010). By contrast, in Uruguay, where consumption has already been decriminalized, harm reduction is more theory than consistent practice, because legal access to a drug is not yet guaranteed for the most vulnerable populations. Currently, the risks and damages to users need to be guaranteed, not regarding the health consequences of substance use, but the possibility of being criminally punished and suffering the deleterious effects of imprisonment or psychiatric confinement.

⁴Pejorative term used to refer to cocaine paste users who stroll through streets, squares, and parks or spend the night sleeping rough.

3.6 Effects of Prohibition on Users of Cocaine Base Paste

As we have seen, according to the available data (Suárez and Ramírez 2014), almost 50% of the Uruguayan problematic users of cocaine paste base, both adults and adolescents, have been affected by the penal system a third of them live on the streets or in shelters for the homeless, which also implies subjection to the same stigma as living on the street (Panter-Brick 2002).

As shown in previous research on the trajectories of the inhabitants of the street, institutional violence is the dimension that consolidates such stigma (Fraiman and Rossal 2011). In other words, violence occurs not only during passage through the prison system, but also child protection institutions, daily police detentions (even if no crime has been committed), and stays in shelters. The institutional procedures of these places serve to consolidate (and introject) the stigma, which for the Uruguayan case are emblemized by the term *pichi*. This degrading term is used by many police officers as a synonym for delinquent and, in slang, as a synonym for vulnerable person.

In times of the “model country,” torture was a police practice dedicated to *pichis* (Albano et al. 2015). As a counterpoise to its civilization process (Elias 1988), the Uruguayan state continues to punish its poorest citizens, for whom it allocates focused social protection instruments that function through “advanced liberal” forms of governmentality (Rose et al. 2012), which are marked by the precariousness of their technicians.⁵

Thus, from this mode of governmentality, social policy devices oriented toward the achievement of central civilizing objectives such as harm reduction, gender equality, and violence prevention have been developed “on the territory.” Using international or budgetary funds (depending on the case), the left hand of the State (Bourdieu 1999) operates in the protection of sectors targeted by their risk and vulnerability: women with children affected by domestic violence; young people who do not study or work; and drug users. These programs deplete their economic resources in the short terms of their contracts; thus, they hire technicians for short periods. Meanwhile, the repressive and tutelary facets of the State operate through immovable civil servants.

To face state punishment (whether legal or not), the State, this complex multiplicity, offers the most vulnerable people the attention of technicians who also work in precarious conditions. The country’s policies, which are usually underlined as part of a long-term “civilizing” and “progressive” scheme, remain in the long-term line of punishing the *pichis*.

⁵In Latin America, “neoliberal governmentality” has a negative meaning and it sound offensive to the experts: social technicians, educators, and volunteers from these forms of governmentality that Nikolas Rose characterizes as advanced liberal. Certainly, these focused types of attention to the most precarious subjects through short-term projects that also turn social work precarious are characteristic of neoliberal policies. Wacquant (2012, p 508) points out: “The terms ‘postsocial governance,’ ‘advanced liberal,’ and ‘late liberal’ are often used as synonyms for neoliberal.”

In particular, the Law of Faults constituted a systematic increase in state violence against the users of cocaine paste base and a re-legitimation of the daily police action toward the *pastosos*, epitome of the *pichis*. To get an idea of this everyday punitive pressure, some data are very eloquent: There are approximately 1150 available beds in homeless shelters belonging to the Ministry of Social Development, a large number of their users being cocaine base consumers. Out of a total of no more than 10,000 users of cocaine base in Montevideo, more than the 30% have had periods of sleeping rough on the streets and are precisely the cocaine paste base users who undergo the greatest difficulties. In addition, within the first 70 days of its enforcement, the Law of Faults prompted 1036 police interventions and 127 detentions. No prosecutions occurred, because the law states the need for a minimum of two interventions for the judge to be able to dictate a sentence.⁶ These figures give a clear idea of the daily pressure and institutional violence this population suffers.

As described elsewhere (Fraiman and Rossal 2011), institutional violence consolidates stigma by the passage through tutelary spaces that mark the trajectories of the subjects; prisons and asylums for adolescents are spaces of citizenship loss. In this sense, institutional violence is the equivalent of political violence in the violence continuum scheme proposed by Bourgois (2009). The author shows four forms of violence that form a continuum: structural violence, symbolic violence, normalized violence, and political violence.

Although the brutalities are naturalized (naturalized violence) in tutelary spaces, the stigmas are internalized (symbolic violence) and the majority of violence ensures the reproduction of criminalization among those who use cocaine base. Likewise, the laws are responsible for the perpetuation of punishment of the poor; As Bourgois (2009, p. 30) recalls, quoting Benjamin, “for the marginalized, every day is a state of emergency.”

However, these are not the only situations that cause criminal justice to be imparted to the users of cocaine paste. One of my interlocutors (Alejo, 30 years old) went to jail in the midst of a deranged maelstrom that had him as protagonist: After consuming for 3 days, he took a bicycle from a garden and fell asleep by its side. He was awakened by a police officer, bullied, and then prosecuted and imprisoned. Another user of cocaine base (Agustín, 26 years old) borrowed a cell phone from a casual street acquaintance and left his backpack behind with his identity card inside. Soon after, he lost the phone and all contact with the guy. Some months later, he was asked for his identification on the street and when giving his name, it came up that he was a wanted offender. The result was the same: prosecution and imprisonment. State violence begins as bureaucratic violence. In both cases, imprisonment was imposed on subjects that need, unequivocally, to be protected in their rights to health care. However, the State sent them to the lowest ranked place in prison classification: the “addict prisoner,” the “*rake* (insignificant thief) without codes,” the “dirty” without family or assistance of any kind.⁷

⁶ <http://www.elpais.com.uy/informacion/indigentes-dia-son-detenedos-policia.html>

⁷ During interviews with people imprisoned before 2002, the arrival of new prisoners, generally *rakes*, emerges as a topic. In general, the *rakes* are prosecuted by causes of trifle, thefts of small

By imparting justice to its most vulnerable subjects in this way, the Uruguayan state is feeding violence rather than stopping it, mainly in those areas of urban territory most subject to the dynamics of the illegal market. In recent years, during a process of radicalization of urban segregation, homicides have increased because of an increase in “systemic” interpersonal violence (Goldstein 1985; Reuter 2009) within the cocaine base market.⁸ Violence in robberies has also increased in the poorest neighborhoods of Montevideo and its metropolitan area. A report that covers the first semester of 2015, shows that the regions of Montevideo inhabited by the middle and upper classes have “European” homicide rates (less than 2/100,000 inhabitants); meanwhile, in the poorest neighborhoods, homicide rates reached the same figures as in Mexico (more than 20/100,000 inhabitants).⁹

During the years that I have been carrying out research on the use of cocaine base, I have not stopped seeing bullet and knife wounds that dozens of my interlocutors have shown me. They showed me their wounds, but very few told me the reasons for the aggression, nor did they tell the judicial agents. One interlocutor told me that he had been injured by the son of his former partner, but because he did not report him they finally made up. During the last 2 years, I have interviewed two users of the health system who entered the hospital with gunshot wounds. Being kind and collaborative, these men narrated their life trajectories to me reflexively and exhaustively, but they were evasive about the injuries that took them to the hospital. The continuity of violence also serves to reproduce impunity and the spirals of aggression and distrust.

3.7 Guardianship

The word “tutelar” is not appreciated in the field of human rights protection. For instance, policies existing before the adoption of the new Codes of Childhood and Adolescence are characterized as tutelary, but indigenous reservations and hospices are also tutelary. In the case of children and the family, tutelary care has been

amounts related to the urgent need to obtain resources for use of cocaine base paste. There are also cases of cell phone thefts from pedestrians, sometimes threatened with small knives. Although this is a crime that has a penalty that imposes imprisonment, within the prison population those who make these small assaults are not considered professional thieves, but *rakes*. In a previous work, through an ethnographic scene we can see how a prisoner self-considered a criminal treats the other subject he considers just a “dirty.”

⁸Technicians and authorities from the Ministry of Interior explained that the increase in the number of homicides, which soared in 2012, was due to “settlements” among people with criminal records, many of them linked to the market of illicit substances. In 2012, homicides increased by 34% compared to 2011. <https://www.minterior.gub.uy/observatorio/images/stories/datos2012.pdf>

⁹<http://www.elobservador.com.uy/barrios-montevideo-tasa-homicidios-similar-mexico-n671953> It is shocking to appreciate the rapid increase in violence in some regions of Mexico in parallel with the repressive push of the War on Drugs and the impunity and corruption of state institutions (Azaola 2012).

opposed to protection, which has been complemented by another term to become “integral protection.” Moreover, tutelary care has become a paradigmatic issue and a kind of hegemonic preaching in academic fields in international organizations. But, it has not yet become dominant among Uruguayan political leaders.

Former President Mujica has more than once pointed out the need to relocate cocaine paste users to the countryside, and such a response has even been requested by relatives of some of these users.¹⁰ Some treatment plans do actually work by relocating users to isolated areas. Others impose corporeal punishment and force their inmates to adhere to religious beliefs that they often do not share. Some others, headed by university professionals,¹¹ charge large sums of money to the users’ families. One can identify these devices in the speech of the interlocutors because there is always only one way of leaving: escape.

These hospices located in the countryside are healthy and hygienic places, but patients’ rights are suspended so that they can be later reintegrated into society. They represent a currently unacceptable solution, but remain at the core of many Uruguayans beliefs. This tutelary system is supported by people from different social backgrounds, from the right and left, from civil servants and labor union advocates to practitioners of the Pentecostal faith.¹²

An interlocutor I came across in the field was an intelligent and wise 75-year-old lady, who was the grandmother of a young cocaine base paste user who had lived on the streets for some years. She described hopefully, but at the same time with doubt, her project to get users off the streets and relocate them into a community or colony in the countryside. Her plan involved several state institutions and ministries responsible for public security, social protection, public health, and education. Her project contained a well-thought-out organization chart, which included the university and scientific research.

¹⁰At the beginning of his presidential term, José Mujica, the president who enacted the laws of equal marriage, cannabis regulation, and abortion, proposed that cocaine base paste users would use military service or rural activities as a way to “get them out of their places and put them to do physical work” <http://www.infobae.com/2010/03/26/507854-jose-mujica-propone-un-servicio-militar-los-adictos-al-paco>

¹¹One of these therapeutic communities uses as therapy the total separation of adolescent drug users from their entire family for 3 months, the aim being to detoxify him/her and modify their relational familiar patterns. In an interview with a user’s grandmother, the interviewee pointed out to some family member that she had not complied with the treatment because she had celebrated the adolescent’s birthday, before that period. The teen eventually escaped from the place, which, of course, is a result of confinement that deprives a teenager of seeing their family for 3 months.

¹²Faced with the proposed closure of psychiatric “colonies,” the public health workers’ union defended the continuity of these colonies, living museums of tutelary times in which locked-up citizens suffered all kinds of violence. In 2006, the new progressive government intended to close these colonies for a couple of years, a proposal the union opposed. In 2016, almost a decade later, the government has still not closed the colonies despite denouncing them. Today, as in 2006, the union opposes closure. On the other hand, two organizations of Pentecostal origin have communities in rural areas in which they deal with the “rehabilitation of addicts” by separation from their places of origin. <http://www.espectador.com/sociedad/59632/msp-pretende-cerrar-las-colonias-psiquiaticas-etcchepare-y-santin-carlos-rossi> y <http://ladiaria.com.uy/articulo/2015/8/en-transito/>

When I was asked about my opinion on the project, I answered with another question: “Do you know the state psychiatric colonies?” She answered by recounting the names of colonies, even mentioning some I had never heard about, such as the Hansen Institute where lepers and other patients with incurable diseases were hospitalized. A relative of hers had lived there in the 1950s. She recounted the events with horror and described those perverse spaces of decitizenization, where people were abandoned to the darkest spaces of the State, even though this had been the most opulent moment of the Uruguayan state in its whole history. In the conversation, we fearfully remembered that, in one of the state psychiatric colonies, a pack of dogs had recently killed an intern, and that a number of irregularities were brought to light after that 2015 case.¹³

3.8 Normalization and Civilizing Processes

Gregor Burkhart, a well-known expert at the European Monitoring Center for Drugs and Drug Addiction, referred to a civilizing process when characterizing the policies that prevent the use of harmful substances and compares them with other civilizational limitations of social life: “The strategies that limit or de-popularize tobacco consumption and excessive use of alcohol follow this evolution of ‘civilizing’ public life (just like traffic lights and the prohibition of spitting on the ground) and at the same time try to sort out market policy failures” (Burkhart 2009, p. 392). In the conclusions of his article, the European Union expert recommends policies combining drug use restrictions in coordination with harm reduction, adding: “On the other hand, it is conceptually and historically incorrect to seek similarities with Prohibition of the 1930s in the USA or with fascism because when environmental strategies put restrictions on behavior, they are just limited to the sphere of public life” (Burkhart 2009, p. 393).

It is necessary to recognize that the approach is interesting: policies that restrict certain practices are not fascist because they regulate the behaviors that produce collective life, such as respecting traffic lights. However, drug regulations that specifically ban substances should be considered differently. These substances are authorized by the existence of civilizing processes that have allowed the development of individuals within societies that restrict the practices that violate their rights and bring down any form of violence. Thus, some restrictions on drugs use are legitimately exercised, whereas others may have a totalitarian character, such as penalizing the use of drugs in circumstances that do not harm any person apart from the consumer. Accordingly, the court of appeal in the Argentine Republic declared that the law that criminalizes the cultivation of cannabis is unconstitutional.¹⁴

¹³<http://www.elpais.com.uy/informacion/murio-paciente-mordido-perros-etchepare.html>

¹⁴<http://www.lanacion.com.ar/1531397-la-justicia-declara-inconstitucional-castigar-el-cultivo-de-marihuana-para-consumo-personal>

Uruguayan Law No. 19.172 was conceived in light of the same civilizing sense. It deals with regulation of the whole cycles of distribution and use of cannabis (with the same restrictions as tobacco smoking, regarding smoked use of the substance; and the same restrictions as alcohol, concerning the driving of vehicles and machinery). In Uruguay, as already pointed out, drug use is decriminalized so such civilizing solutions should develop in the direction proposed by Burkhart, regulating the uses that could harm third parties or the public sphere. But, to arrive at this civilizing moment, some European and American countries still need to go through the decriminalization of the uses of drugs; in fact, they must remove the use of psychoactive substances from the criminal sphere.

Therefore, Western Europe and the Americas are the two main arenas of the debate on how to deal with the adverse effects of the War on Drugs, which has been sustained on a global scale for decades. In both locations, qualitative changes in the nature of civilization are taking place. The recent 2016 United Nations General Assembly Special Session on Drugs (UNGASS) made it possible to share the global state of the art with transparency, although its main features had already been discussed in the European context and in the Organization of American States (OAS) meeting of 2012. The second decade of the twenty-first century is seeing the breakdown of the War-on-Drugs hegemony, and how the slogan of “a world free of drugs” is dystopian. Accordingly, 2016 UNGASS has adopted a more realistic view that advocates “a world free of drug abuse.”

In Latin America, the consequences of the crusade under the motto “a drug-free world” have resulted in a decline in the power of some nation-states to control sectors of their territories. This has been accompanied by an undeniable increase in corruption and hundreds of thousands of people killed and imprisoned. All these deprivations were suffered without obtaining the desired result. Instead, the opposite occurred: increased consumption of drugs and the growth, enrichment, and diversification of the illicit markets.

Considering such results, and that prevention campaigns based on shocking signs and slogans but dubious arguments have had iatrogenic effects for the direct users of the substances (Burkhart 2009), there is an urgent need for more sincere messages. The need for sincerity as the basic building block from which a new consensus can be reached seems to be a sign of the times.

For instance, the processes of cannabis use normalization and the perception of the use of marijuana as low risk go hand in hand; they are part of the same phenomenon for users and nonusers. People from the same generation usually consider that the use of cannabis is not so dangerous, due to their personal experience. In other words, users and their close friends know that cannabis does not have the risks attributed to it by prevention campaigns and prohibitionist speeches and that the use of cannabis carries no greater risk than that of tobacco or alcohol.

As I pointed out, The US case illustrates this process of normalization, with Barack Obama being eloquent on the subject: “Marijuana is no more dangerous than alcohol or tobacco.”¹⁵ Against this backdrop, cannabis use is authorized in different

¹⁵http://sociedad.elpais.com/sociedad/2014/01/19/actualidad/1390156784_083798.html

states, and different forms of market development for legal access to the substance are pragmatically provided.

Whether through state-centralized or market-centralized models,¹⁶ the departure from prohibitionism is in the civilizing horizon of the West. This is in contrast to the situation in the Philippines, where an avowed admirer of Hitler's methods is leading a new dirty war against drug users.¹⁷

3.9 Conclusion

"Like the soldier who returns from the war and says we must stop" is how the supreme authority of the Uruguayan police feels (Müller and Draper 2017, p. 279). Uruguay has not been massively affected by the social and political effects of prohibitionism. However, different aspects of the global War on Drugs can be found in the poorest sectors of the metropolitan area of Montevideo and in some cities in the interior of the country. With the expansion of the drug market, many poor people live in permanent insecurity, and the war strategy has given no other result than increases in violence, imprisonment, corruption of institutions, and marginalization.

Throughout this paper, I have shown that there is no contradiction, but rather complementarity, in the Uruguayan policies aimed at people who use drugs: protection of socially integrated subjects and mistrust and punishment of the marginalized. The Uruguayan state maintains its protective imprint, reproducing it in its devices, agents, and many of its citizens. Those who do not know how to be a good citizen of the polis receive a tutelary response, state violence from the police, and are subjected to guardianship. However, even such common sense can break down. The defeat of prohibitionism regarding cannabis suggests a clear civilizing sense. We already know, thanks to the harm reduction policies of some parts of Europe, that facilitating legal access to different substances reduces state and social violence. Likewise, we know that policies should be aimed at combating violence, not feeding it.

At the margins of the Uruguayan state (Das and Poole 2004), the police and some parastate forms of social protection are governmental forms of advanced liberalism that operate in the targeting of marginalized subjects. The increase in state violence associated with repression of the most vulnerable correlates with the growth in violence within the illicit market to which they are subjected. Many of the people who use smokeable cocaine accumulate punishment in their bodies, and their debts steadily increase in that "moral economy of violence" (Karandinos et al. 2014) that is the cocaine base paste market (Albano et al. 2014).

¹⁶These concepts could be useful to think a strategic retreat from the prohibitionist complex. Sunkel (2006) and other Chilean scholars have used them profitably to think about the *market-centric* neoliberal dictatorship in Chile.

¹⁷https://elpais.com/internacional/2016/09/30/actualidad/1475226573_805987.html

Uruguayan drug policies imply progressive and civilizing protection for integrated subjects through a state-centric form that protects the users of cannabis from the possibility of becoming entrapped by the State in very same violence. As a counterpoise and without showing any fissures, this policy exerts a high punitive pressure over the *pastosos* and *pichis*, to whom it allocates spaces of advanced liberal governmentality where they experience such pressure on a daily basis. In addition, as happens in other areas, the needs of the most vulnerable are catered for by the most precarious workers.

As a result, Uruguayan policy offers a model that does not leave to the market the regulation of the use of substances potentially harmful to health. Furthermore, it confronts the endurance of a prohibition that favors the growth of a violent drug market.

“With contrasting models in Uruguay versus the Colorado and Washington schemes, there will be much to learn from the first ten years of legal cannabis markets. One wonders whether the second decade will see the triumph of public health over private profit.” (Lenton 2014, p. 358)

This contrast expresses two distinct civilizational processes, two mechanisms that are already in motion in order to overcome the damage caused by the War-on-Drugs strategy and, sooner or later, to abandon the dense networks of the prohibitionist complex.¹⁸

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¹⁸Currently, the prohibitionist complex is showing one of its most effective facets: the financial system. International financial regulations have forced Uruguayan banks to close the accounts of pharmacies that had decided to sell cannabis, making an additional difficulty for the Uruguayan model of regulation of cannabis. <http://www.elobservador.com.uy/bancos-privados-empiezan-cerrar-cuentas-empresas-vinculadas-marihuana-n1104674>

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