

Paradoxes in the jurisprudence against the consumption of narcotics. *Analysis based on bioethics**

Paradojas en la jurisprudencia frente al consumo de estupefacientes. *Análisis a partir de la bioética*

Paradoxos na Jurisprudência frente ao consumo de entorpecentes. *Uma análise a partir da bioética*

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Abstract

This article tries to describe how the Colombian jurisprudence guarantees through the guardianship the access to the health of the drug addicts and of the inhabitants of the street when the scourge of the drug addiction is recognized as a disease; But on the other hand, it allows the consumption of narcotics without taking into account the criteria established by other disciplines. For this reason, a documentary analysis is carried out on the effect of the principle of dignity on the consumption of the addict and the inhabitant of the street according to legal, juridical and philosophical tendencies, to conclude that these assessments must be taken into account to establish criteria in bioethics Which should be inserted into drug-related legislation and jurisprudence and regulate the permissive use of narcotic drugs in Colombia, especially psychoactive substances. Article that will generate academic reflection, through the method of documentary analysis of jurisprudence, doctrine, documents and articles of indexed journals. Being a qualitative and descriptive research (Guirao-Goris, Olmedo Salas & Ferrer Ferrandis, 2008).

Key words: Dignity, justice, narcotics, public health, disease, drug addiction, freedom.

Resumen

El presente artículo busca describir cómo la jurisprudencia colombiana garantiza por medio de la tutela el acceso a la salud de los drogodependientes y los habitantes de la calle al reconocer la drogadicción como una enfermedad (principio de beneficencia); pero en otras providencias permite el consumo de estupefacientes sin tener en cuenta los criterios establecidos por otras disciplinas (principio de autonomía). Por esto, se realiza un análisis documental acerca de la afectación del principio de dignidad en el consumo del adicto y el habitante de la calle conforme a las tendencias legales, jurídicas y ius-filosóficas a fin de concluir que estas apreciaciones se deben tener en cuenta para establecer criterios desde la bioética que se deberían insertar en la normatividad y la jurisprudencia relacionada con el consumo de sustancias psicoactivas en el país. Este artículo se enfoca en el método del análisis documental de la jurisprudencia, la doctrina, los documentos y artículos de revistas indexadas. Siendo una investigación cualitativa y de corte descriptiva (Guirao-Goris, Olmedo Salas & Ferrer Ferrandis, 2008).

Palabras Clave: Suicidio, ideación suicida, familia, aceptación social, adolescencia

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Resumo

O presente artigo visa descobrir como a jurisprudência colombiana garante, por meio da tutela, o acesso à saúde dos dependentes químicos e os habitantes da rua ao reconhecer a dependência química como uma doença (princípio de beneficência); mas em outras providencias permite o consumo de entorpecentes sem ter em conta os critérios estabelecidos por outras disciplinas (princípio de autonomia). Por isso, se realiza uma análise documental sobre a implicação do princípio de dignidade no consumo do entorpecente e o morador de rua conforme as tendências legais, jurídicas e ius-filosóficas, afim de concluir que estas apreciações devem ser tomadas em conta para estabelecer critérios desde a bioética que deveriam estar insertadas na normatividade e a jurisprudência relacionada com o consumo de substancias psicoativas no país. O artigo se enfoca no método de análise documental da jurisprudência, da doutrina, dos documentos e artigos de revistas indexadas; é uma pesquisa qualitativa e de corte descritivo (Guirao-Coris, Olmedo Salas & Ferrer Ferrandis, 2008).

Palavras-chave: Dignidade, justiça, entorpecentes, saúde pública, doença, dependente químico, liberdade.

Profile

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Introducción

Téllez-Mosquera and Bedoya (2015) consider that the research that has been developed in relation to the subject, have been inclined to raise the Colombian High Courts' knowledge of technical-scientific concepts to allow the consumption of personal doses or the supply of narcotics, in accordance with sentences C-221 of 1994, C - 491 of 2012, issued by the Constitutional Court, and the Radicados 29183 and 41760 of the Supreme Court of Justice, that according to Campbell (2013), has underpinned the thesis of non-infringement of other people's rights by the consumption of narcotic drugs without taking into account health or social factors of the individual that can lead to drug dependence, Law 1641 of 2013 has also been enacted which established guidelines for the formulation of social public policy for street dwellers, whose purpose is to "guarantee, promote, protect and restore the rights of these persons, with the aim of achieving their comprehensive care, rehabilitation and social inclusion" (Law 1641, 2013).

This article relates a sum of analysis of documents made to the doctrine, and the academic articles that allow knowing the criteria to be taken into account in establishing trends about a bioethics applied in the legal system against the consumption of psychoactive substances in Colombia in which two principles are faced: that of autonomy as the fundamental axiom for the admission of consumption and charity because it is the pillar obligatory care for addicts and street dwellers. In the end, therefore, the judgments facing these two principles will be analyzed to conclude that there are serious contradictions between the providences.

Currents, reiterations, and in general recommendations in the field of iusphilosophical doctrine and clinical medicine linking bioethics to the scourge of drugs are identified so that the

re is no mismatch between principles. For this reason, it must be accepted that bio-legal is a branch of bioethics that establishes that social, moral and conviviality behaviors must be regulated by the inhabitants when creating duties, laws, rules, and public policies in the field of law, whose mission is to ensure respect for the rights of each person and a conglomerate, by conduct that may affect protected legal property, in search of the proper development of social life, that is, according to Samperio and Barrachina (2007) bio-legal aims to establish the viability and relevance of legal norms to adapt it to the principles of bioethics, deepening its moral and ethical aspects.

The research carried out was qualitative, of descriptive cut, with a method of documentary analysis. The elements of work are articles of inquiry, books, the jurisprudence of the Constitutional Court and the Supreme Court of Justice of Colombia, and the law-like regulations, therefore, the procedure was as follows:

The sources were defined from a selective search of data in various specialized journals and on internet portals such as: "Legis Publications", "access Medicine", "Elsevier", "Dialnet", "Scielo", "Google Scholar", "Scopus", 102 sources were extracted. Once the location of these was made, a selection reading was made, which allowed to finally constitute a set of 62 references, conform to the categories sought as they are: Dignity, justice, narcotics, public health, disease, drug dependence, and freedom.

According to the above, careful reading of the sources was carried out, organized, classified, and interpreted, which allowed establishing primary categories (original, books, jurisprudence, articles, thesis), secondary (catalogs, databases, revisions, and summaries), and tertiary such as Guirao-Goris, et al (2008) that are key to the subsequent process of theoretic

cal consolidation and the development of the objective, for this reason, organized the information by categories (or keywords) a reading was again made for the theoretical consolidation of them to finally establish the accuracy of the arguments and their epistemological purposes. Finally, the documents were analyzed and interpreted at two times: first, selecting the documentary mass, organizing and debugging it and the second, consisted of the analysis and theoretical contrast which allowed to show legal, legal, iusphilosophical, and social trends that must be taken into account to establish biolegal criteria inserted in drug-related regulations and their permissiveness in their use in Colombia.

2. Discussion: Philosophical and bioethical optics of dignity in consumption

The analysis allows the reader to discern how the dignity of the addicted human being and street dweller is violated because the jurisprudence of the Constitutional Court and Ordinary Jurisdiction has approved consumption by misinterpreting the principle of autonomy and how the Constitutional Court through its providences has had to correct the scourge of drug addiction by ensuring access to the health of drug addicts and the homeless people. Therefore, it is proposed to describe legal, legal, philosophical, and social trends that must be taken into account to establish bio-legal criteria embedded in drug-related regulations and their permissiveness in their consumption in Colombia, which allows understanding the scourge of drug addiction in street dwellers from a bioethics approach.

The first philosophical conceptions of human dignity are contrary to those argues by the Constitutional Court about the consumption of narcotics and in this sense, Pico della Mirandola (2009) is observed, who part of the idea in which man is born with the power to build

his destiny through his freedom, in which he decides to become a plant, an animal or a child of God, an environment in which free will is a gift that allows him to behave according to his faculties by making deliberate decisions and taking risks because he is superior to everything created, which is why, it must be understood that human beings are a person who must take care of his dignity as soon as he has the possibility of generating a constant change for a better destiny, that is, self-care is part of its mission.

The problem arises when the man loses his way, and in this sense, Ahmad (2007), criticizes the permissive model of drugs based on the metaphor in which human beings go in a vehicle bound for their death, but that when human beings engage in the world of drugs (opium, which is the field in which the author deals) he leaves the vehicle and begins by dealing with something other than life and death, that is, enters into meaningless.

From Kant's optics (2014), it should be noted that the purpose of the human being by being linked to free will has his interest when the man is at his goals, this is the purpose of nature that comes to become a man himself, therefore, adds Kant, that freedom to choose between good and evil, between what is right and what is not, must always be kept on the path that considers highlighting the dignity of the human being because he is the only one who possesses an understanding and a power to propose goals, in the same sense Nino (1989) states that the temperament that respects the feeling of the dignity of human nature is that commensurate with the liberal principle of autonomy of the person.

However, the Constitutional Court has allowed the consumption of the so-called personal dose reaffirming that the approach must be linked to autonomy and the free development

of personality, but freedom without meaning of life, without dignity? to this consideration, Camus (1999) called it "the absurdity" when he stated that the only truly serious problem to solve in life was to find meaning for it because otherwise suicide could be allowed as an option, and that is why in The metaphor of Sisyphus, rolling a stone uphill and then waiting for it to come down is to face an absurd life that does not deserve to be lived, where the greatest punishment for the human being is to face a useless and hopeless way of life.

In the same feeling, Cañas (1996) stipulates that the culture of addictions is similar to death and especially suicide since it is reached slowly and gradually because the inhabitant of the drug-addicted street is a prisoner who has lost his hope, his physical state, and his mind. The addict being thrown into the street is given to the domain of addiction and subjected to it in absurdity.

Another factor that affects the dignity of the drug-dependent human being and leads him to choose to take to the streets is a society, which is characterized by a progressive individualism that throws a sum of people towards social exclusion in extreme poverty with dramatic survival alternatives because they are sick because of a scourge that is allowed without

consider this socioeconomic reality, and for this reason, Correa (2007) stipulates that the inhabitants of the street possess a deep feeling of marginality, abandonment, non-belonging, are strange, have low self-esteem, and live "an eternal present". In addition, Otálvaro and Arango (2015) citing studies conducted by Hwang (2001) conclude that these people are immersed in high chances of dying early from diseases resulting from their addiction and related pathologies such

as chronic lung diseases, anemia, vitiligo, accelerated aging, mycosis, gastrointestinal, neurological disorders, among others.

Therefore, Cañas (2013), as a proposal for improvement in bioethics suggests an approach to the phenomenon that is rehumanizing, that is, the non-consumer analyzing the life from the concept of hope in its existence as an existentialist budget of this century because the addict only lives to wait for his dose and when he does not obtain it comes the despair comes, therefore, the philosophy of rehumanization gives a human-existent livelihood in the conception of the person from anthropological - personalistic and bioethical - personalistic approaches that are adequate to understand that addiction is the wrong way as an escape method in the face of the problems and frustrations of life in the search for momentary happiness (p.p. 107 , 108), contrary to what judgment in C-221 of 1994 seeks to guarantee the right of consumer satisfaction by based it on its free development of personality.

In the same sense, Pérez (2000) proposes that from the principles of nonmaleficence and charity health strategies of care for the addict should be useful towards the person and not to the medical discipline itself, therefore, they should be focused on the same dependence where the consequences generated by this disease are studied in substance as the physical ones, psychic and social ones so that a risk reduction assessment is made from them.

3. Dignity under a bioethics optics in the narcotics consumption of street dwellers

There are abundant sources related to the principle of human dignity, however, concerning the objective of this article, a thorough review was made to relate this apothegm to drug dependence and homeless people, in general, authors like Carpizo (2011) for whom dignity ge-

nerally singularizes the person in front of other living beings to his reason, will, freedom, equality, historically and that this is allowed through human rights to be able to develop in the individual, the social, the political, the economic and the cultural, and specifically brings up Pacheco (2008) who analyses the affectation of the dignity of this population from the concept of "exclusion" with contributions in bioethics to expand this vision.

So does Escobar Triana (2006), who from a thoughtful point of view expresses that the homeless are victims of the greatest social exclusion because they have left their homes, breaking their relationships, living in absolute misery by awakening feelings of "rejection, fear, contempt and, at best, regret" (p.24), further describes a report by the DHC (Human Development for Colombia 2008) in which it is observed that drug use is part of its subculture, because 90.3% of respondents report consuming any type of substance, the rest does not report and their activities are to ask for coins, to steal, or to clean glass at traffic lights and to recycle and because of this disease (drug dependence) most are helpless by not receiving help from anyone (p.24), that is, this situation of deprivation of vital elements is incompatible with human dignity and this poverty is the main cause of human rights violations.

As stated above, as drug addiction is a factor that generates exclusion and affects the dignity of those who suffer from it, Arribas (2001) states that a referent social construction is taking place forming a stigma in which it is classified among the weakest people, in which the drug addict lives his life through substance losing his place/space in society remaining in exile, socially separated and becoming a victim of social impairment, i.e. losing its skills, structure, its function where it acquires a disability that makes it impossible for it to perform any function called work, academic, family or social, in

addition, Vazquez & Romani (2012) considers the problem of stigma and discrimination of drug addicts to be a component that also generates exclusion in health care, as discussed below.

The criticism expressed by bioethics is that drug legislation is unfounded because it is lying on the principles of law and its philosophy, more not in bioethics as a source, especially biomedical discipline, i.e. legislation does not take into account Galen and scientific concepts to establish what affects the person himself, Chavarriaga suggests (2015) and at this point, Téllez-Mosquera (2015) points out that jurisprudence has generated numerous inaccuracies regarding the application of judicial precedent C-221 of 1994 because it quarrels with international treaties of medical ethics and with the same scientific logic since the degree of toxicity and medical consequences must be measured by the uniqueness of each human being.

Because the quantity supplied is concerning weight and its effect is correlative based on a unit of time, so regular or addictive consumption have been linked to several alterations that negatively affect consumer systems and organs "generating pathologies of an irreversible nature and even death" (Téllez-Mosquera, 2015, p.104) and part of these consequences is destitution by- that legalization by judicial means has influenced since the has forgotten to assist the individual without assuming his role by leaving this task to the Constitutional Court, as developed doctrinally by López (2014).

In this sense, Porrás-López (2016) questions the role of judges by applying their sentences as a source of law, regardless of what was required by authors such as Del Moral, Fernández, Ladero & Lizasoain (1998), who concluded that drug dependence had already been regarded for four decades as an epidemic with social and health consequences due to the price that has

had to be paid with direct impact on life with comparability in somatic diseases, psychiatric, related crime, poor job performance, family disintegration, among others.

According to Esbec and Echeburúa (2010), other factors affecting humans are the health consequences of addiction, such as personality disorders which are highly associated with drug use and abuse where anger occurs with all the intensity in the adrenergic discharge of psychostimulants or with inhibition caused by narcotics related to problems such as psychiatric pathologies including depression, anxiety or schizophrenia disorders, which promotes their timing.

So it is recalled that psychosis is a scourge of latent danger to the increase in violence, coupled with the consumption of narcotics and their poor treatment, therefore, this shows that the Constitutional Court by allowing consumption without taking into account studies that show that consumption generates pathologies that send the consumer to clinics or their defect, do- bit the streets. For the same reason, Esbec and Echeburúa (2016), confirm that apart from this, there is also a causal relationship between drug use and crime.

In this sense, Otero-López (1997) carries out the drug-crime linkage, in the same context Rodríguez and Odriozola (2014) pro- put that the High Courts take into account the jurisprudence in which deli- ts that have been committed under the influence of drugs and the various forensic studies are linked and to take into account these cases in terms of permissiveness, moreover, the author relates cases in which drug dependence becomes an exempt or mitigating factor of responsibility (p.189), in the same sense Garcia (1999) considers that the use of illicit substances is linked to illicit activities and although Zipaquirá (2013) states that this scourge is not a conflict of social but economic

dogmas, the related documents at this point consider that it involves not only financial profitability but the consequences of this practice.

On the relationship between drugs and crime, Valenzuela & Larroulet (2010) use Goldstein's tripartite model (1985) to assume that through this link crimes linked to drug abuse can be committed, firstly there is systemic attribution, secondly the psychopharmacological connection and finally economic-compulsive attribution, in which the second and third become vitally important for this study , because committing crimes under the influence of narcotics carries a higher crime rate in crimes such as theft, homicide, violent carnal access and personal injury (p.39), and in the third model the criminal rate is lower because a good number of street dwellers are dedicated to asking for money to consume, in this sense Moré (2003) also makes a similar fragmentation in the budget of linking drugs with the criminological factor , however, the author describes how the dependence factor as a cognitive, behavioral or physiological symptom causes the individual to lose control over the psychoactive substance, regardless of whether its use has consequences on his health.

Another aspect linked to consumption and to be taken into account is that enunciated by Goffman (1970), who outlines how the Greeks created the term stigma to describe the bodily cues showing bad things that were not common within a social status, for example, burns or cuts, which made the person who had them a slave, a criminal, a traitor or a corrupt one.

As the term has changed within a Judeo-Christian context today the locution refers to evil in itself and not to its bodily manifestations, that is, the term "stigma" is discrediting for those who carry it, and the reason is that thanks to this the individual is discreditable and at the same time discredited, since within the divi-

sion that makes the author of the stigmas he categorizes them as "the defects of the character of the individual" in which there are drug addictions, unwillingness, alcoholism, among others, which denotes a negative social consequence for the narcotics consumer.

Paris Pombo, Pérez, and Medrano (2010) show that stigmatization and discrimination is not only directed at the consumer but also at their families, because the working conditions, housing held by consumers, as well as their relatives denote the systematic violation of the right to a life with dignity, causing marginality and segregation in this population. The exclusion is also criticized by López, Fagua, and Pineda (2016), who find legal gaps in the adoption of public policies aimed at preventing and delaying the age of narcotics use and the implementation of "models of care for psychiatric pre-sick" for poor families.

4. Access to health for drug addicts and street dwellers (principle of charity) Jurisprudence

It is contradictory that the Constitutional Court of Colombia through the renowned jurisprudence C-221 of 1994 and the 41760 when protecting the right to consumption (personal dose and provision respectively) has also established through another judgment that drug dependence is a psychiatric pathology that requires medical and professional assistance since it affects the decision-making power (self-determination and autonomy) of the sick, which means that the State must intervene to guarantee the fundamental rights of these persons (Constitutional Court Judgment T-814), in the light of a principal bioethics, the principle of bioethical charity coined by Beauchamp and Childress (1979) is being given prevalence.

This means that the Court itself has realized that the philosophical and principled founda-

tions in law are not sufficient to deal with the scourge, as research, for example, those of Téllez-Mosquera & Bedoya (2015) has shown that personal dose use is a highly decisive factor in reaching addiction and the exploration of new drugs. It is then necessary for the law to take into account the specialized considerations to make its judgments in the exercise of public health that is affecting thousands of human beings, however, it must be taken into account that underdeveloped countries such as Colombia do not have structural elements that allow effective access to health for all as Donabedian (1996) states.

In the same sense Macchi (2014) questions the legal system implemented in Colombia since 1993 because it has increased the number of guardianships for the poor service provided by the E.P.S. and not only in Colombia, Gilchrist, Fonseca, and Torrens (2011) conducted a study where there were lacks in attention to the addicted and street population in Europe.

In the guardianship judgment T-153/14, the protection was granted to an 18-year-old who through a third person (unofficial agency) ordered the E.P.S. Coomeva to care for him to overcome the addiction to marijuana and alcohol since this unit has led him to develop behaviors that undermine his relatives' physical integrity and economic heritage. This providence emphasized the importance of the right to health as a fundamental right because drug addicts recognized their dignity as human beings and the obligation of the E.P.S. and the I.P.S. to provide the treatment required for these people to overcome such addictions. After all, by constitutional principle the right to self-determination and the free development of personality has been treated in various providences, this cannot be anything in the sense of denying them access to health.

Another sentence in the same direction is the T-796, in which the Constitutional Court forced Saludcoop E.P.S., Emsanar, and the Nariño Departmental Institute of Health to care for two street dwellers by considering that they violated fundamental rights by refusing to grant the medical treatment required for the management of their mental illnesses caused by the addictive use of psychoactive substances. It should be emphasized that the shareholders were registered to the health system in different regimes and that they presented the constitutional actions before the unification of the plans of the contributory and subsidized regime (the dossiers were accumulated per unit of the matter). Therefore, in reviewing standing as an active person to bring the respective guardianship actions and to review the fundamental right to health of persons suffering from mental disorders from addictive use of psychoactive, lawful, and illicit substances, it decided to grant the managed right.

Case-law T-684/2002 highlighted that the teleology of the Social and Democratic State of Colombian law derives from the obligation and duty of care for people with lower (disadvantaged) resources, among which are the indigent, since they are understood as human beings deprived of essential economic resources to survive, who have no aptitude to work for various reasons, including health. This obligation is well described in constitutional Article 13 which reads: "The State shall protect especially those persons who, because of their economic, physical or mental condition, are in circumstances of manifest weakness (...)".

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However, it was recalled in this case-law that it is first of all the legislator's responsibility to develop related regulations for the care of this group of persons (a situation that occurred with the issuance of Law 1641 of 2013),

this providence the Constitutional Court stated that in the event of serious harm to the minimum conditions or the minimum life of the person seeking care and this person in a state of destitution does not have a family nucleus nearby- not that covers these requirements, the attention of the State ordered immediately through guardianship is exceptionally appropriated, as was the judgment in T-533/92, stating that:

"Solidarity and support for the person who is in destitution and suffers from health breaks is primarily the responsibility of the family. As determined by law, its members have a legal and moral obligation to assist their near descendants or ancestors. However, if the family is in the material inability to support one of its members, they cannot be left hopelessly abandoned to their fate. The State, in the development of its essential purposes, is in the constitutional duty to effectively protect the rights of the person, it is for the public authority to find the legal alternatives to ensure their exercise while requiring compliance with the social obligations of individuals (art. 2)" However, the subpoena corresponds to a separate addition to a guardianship in which it recognizes the rights of the inhabitants of the street by guaranteeing them the basic public services of health, comprehensive social security, and food subsidy, and since 1992 the legislature was called upon to implement the guarantee of rights, so that in extraordinary cases the special protection of a person can be applied immediately when the social marginality and put it in circumstances of notorious weakness (indigency), that is, that once the real state of destitution can be found, the State through public health entities must hinder the provision of health services that can be paid for with social work.

Finally, in guardianship decision T-881/2008

of 11 September 2008, the Constitutional Court guaranteed the right to health of a minor addict in which he ordered Coomeva E.P.S. to recognize a treatment (right to diagnosis) prescribed by a private physician since the minor requires urgent care, stating that the addict "Requires hospital management in a rehabilitation center for drug-dependents", then, although a medical diagnosis is already found in the case developed by the judgment, the High Court determined that the child has the right to have the E.P.S. in charge of establishing the comprehensive treatment that it requires and for it to carry out a valuation study of its health status because as it is ex- in the considerations of providence the health service provider is Coomeva E.P.S. is responsible for providing the health services that the child needs for the rehabilitation of his addiction, taking into account the provisions of the staff working with this E.P.S. in care of the needs of the patient.

5. Relevant jurisprudence that allows the consumption of narcotics as a risk factor for addiction - the principle of autonomy

Scoppetta (2010), states that children and young people are increasingly involved in the consumption of narcotics, in addition, they have greater facilities to acquire them, and studies show that this population is the one that accesses this type of substance and the evidence shows that consumption is increasing every day, the numbers are worrying because as consumption increases, the chances of these young people leaving aside their social life projects are greater. The Jurisprudence of the Constitutional Court has issued numerous judgments that support the permissiveness of consumption and the best known of all is the C-221 of 1994, however, the problem with the legislation came with the issuance of Law 1453 of 2011 (Citizen

Security Act), following principal bioethics, here is misinterpreting the principle of autonomy.

Law 1453 of 2011 decreed as punishable the personal dose contrary to the preceding case-law of 1994, which resulted in the judgment established 35978 of 17 August 2011 of the Criminal Chamber of the Supreme Court of Justice which convicted a consumer for having exceeded the limits of consumption without having injured public health. This led the Constitutional Court to issue the judgment in C-491 of 2012, in the sense of rebutting providence by the Supreme Criminal Court and clarified that the personal dose could not be penalized, let alone when exceeded at a point that does not affect the principles of proportionality of criminal law in respect of the autonomy of the human being who is satisfied by consuming substances that make him happy and allow his development as a self-employed human being and free. Stating that the provisions of judgment in C-221 of 1994 have not changed around the personal dose, because the crime of not affecting public health should not be given a theological connotation in the sense of safeguarding a society's own "rights".

The supreme court's rulings have assessed the concept of the harmfulness of the protected legal good of public health, for example, the 29183 judgment of 18 November 2008 acquitted a citizen for the trafficking and narcotics offense for having exceeded by 9.9 grams the personal dose of marijuana allowed by the Constitutional Court, for not violating material anti-law by not effectively injuring public health with the grams exceeded. In the 41760 establishments of March 09, 2016, the same Chamber acquitted a National Army soldier for the 50.2 grams of marijuana, moving from the context of "per-

sonal dose" to "supply dose".

The High Court highlighted important aspects in allowing a human being to enjoy his right to freedom of consumption of narcotics, in recognition of his dignity, where the autonomy of the person is firmly recognized since this principle guarantees him to feel an end in itself, and the purpose of not taking a human being as a means of achieving the purpose pursued by the Statute of Narcotics and economic policy to slow the flow of dollars from highly consumer countries.

This situation generates a larger blow for permissiveness in consumption, that the State should regulate, in the maximum number of narcotics, the dignity of the human being in the medium and long term, that is, although the judgment in C-221 of 1994 has put a cap of 20 grams for marijuana.

Another paradox is the conflict of criteria between the judicial branch and the executive continues to present himself, for example, with the issuance of Decree 1844 of 2018 issued by the President of the Republic of Colombia which partially governed the National Code of Police and Cohabitation, concerning to the prohibition of possessing, having, delivering, distributing or marketing prohibited drugs or substances", criminal sanctions were established to whoever found the so-called minimum dose without medical support and consumption in public places, however, the Constitutional Court declared unenforceable the articles that Decree 1844 intended to reform by considering that the consumption of narcotics should be allowed because not doing so would be affecting the free development of the personality, matters that will continue to be discussed in subsequent investigations.

6. Conclusions

In reviewing 103 bibliographic sources, 62 related to the aspects proposed in the objective is the description of legal, legal, ius-philosophical and social trends that must be taken into account to establish bio-legal criteria inserted into drug-related regulations and permissiveness in consumption in Colombia, therefore, there are contradictions because the jurisprudence that looks after the attention of addicts and street dwellers in the light of the principle of charity accepts that it is facing a serious illness and is failing in favor of those who were guaranteed the right to consumption (autonomy).

The paradoxical aspect of the subject stated is that the jurisprudence of the High Courts allows consumption, and at the same time seeks to guarantee access to the health of the inhabitants of the street because it is the same judges through their guardianship rulings who have seen those fundamental rights to health through their decisions (Vallejo , 2011, p.8), however, it has been said that studies carried out by specialized health entities and those responsible for implementing public policies are not taken into account as the variables around the phenomenon of consumption are increasing according to the National Survey of Youth Drug Use (Delgado, Pérez & Scoppetta, 2001, p. 86) , so giving priority to autonomy in a distorted way is harming the dignity of people

The Constitutional Court allows and enjoys the right to care for narcotics and consumption, but also part of its jurisprudence is aware of the problems raised by the addiction generated. The case-law of this Court has suggested public policies for street dwellers addicted to narcotics of natural or synthetic origin and has sought to ensure access to the health of people in destitution, such as T-814 of 2008, which recognizes that

drug dependence is a psychiatric pathological state affecting autonomy as a bioethical principle analysed. In addition, according to science, consumption is a categorical factor that leads to addiction.

The contradiction that exists in the jurisprudence of the Constitutional Court about the consumption of narcotics, addiction and medical treatment became evident. Some sentences protect consumption, but others that protect the right to health of people in a condition of addiction for the treatment of mental illnesses caused by the use of psychoactive substances. It was taken into account that the right to health and rehabilitating treatments were granted to low-income and destitute people.

It was inferred that the problem with Colombian jurisprudence is that it is not unanimous to deal with consumption, addiction and destitution. Autonomy from principialist bioethics is not justified in substance, medical specialists are not consulted, and the concepts of neuroscience are not accounted for.

Permissive consumption decisions protect rights without analysing the potential consequences, and when public health and extreme poverty problems arise from cultivation, consumption, addiction and destitution, "guarantees" these are accepted that would counter the justification for consumption and overburden public health responsibilities to the Government, as a recommendation, judgment T-043 of 2015 should be discussed in future investigations, which assessed the health problem that is being presented because of drug dependence and the various related diseases, to guarantee the right to a person who does wish to leave this scourge under a law that was designed for this population, but on the other hand

justifies begging and vagrancy as an exercise of the free development of personality by the Constitutional Court that seeks to dignify dishonorable activities that ultimately affect the Dignity of the humans, aspects that must be analyzed in greater depth.

The Constitutional Court gives dignity a nihilistic content because it makes man purposeless and manifests his disorder as a lifestyle. This is also raised by the Criminal Chamber of the Supreme Court of Justice in Judgment 41760 of 2016 which dealt with relevant aspects with permissiveness for a person to enjoy the right to freedom of consumption of narcotics. Its main argument to justify the decision is the recognition of the dignity of the consumer that must be in connection with its autonomy. Jurisprudence regards the person as an end in itself, and not a means of achieving the purpose pursued by the Statute of Narcotics and an economic policy, to curb the flow of foreign exchange arrivals from highly consumer countries.

The problem with the position assumed by the Supreme Court of Justice is that there is a larger gap for consumer permissiveness, and the State must regulate this situation; more so if narcotics affect the dignity of the human being in the medium and long term as is to be demonstrated in this argument, that is, if landmark judgment C-221 of 1994 justified the personal dose, the 2016 establishment extended it to a supply dose. The problem that arises is that the judgments analyzed justifying consumption did not stipulate reflections on the psychological consequences and philosophical statements that show that man when entering an addiction loses his course and his sense of life.

These sources seek to establish benchmarks around the harmful effects of consumption

and are developing as a consequence of jurisprudential permissiveness and the breakdown of family unity and against which their solution is not thoroughly known, to name an example, the consumption of bazooka, a psychoactive substance that is becoming the biggest public health problem for homeless people because drug policy has its focus on the eradication of coca crops, this derivative that causes the greatest damage in the city of Bogota (IDIPRON, 2013), however, Baratta (1988) advocates the decriminalization of drug trafficking in all its forms so that it is the State that is responsible for the production of the production, marketing and exercising control to lower the criminal and health rates associated with this scourge, combining it with the results obtained in the fight against this scourge and its context, so does Garcia (2012).

Achieving an understanding of the drug problem in front of the consumer first implies knowing that all appropriate preventive actions must be taken into account by going against criminalization for health and treatment policies to flourish for the consumer, carrying out objective studies, with regional dialogues and with a strong cross-sectoral commitment from the School (Minjusticia, Mineducation, and Minsalud, 2012), where there are research programs on addictions, citizen participation programs (compensatory justice) with programs such as the "Preventive System of Communities That Care" proclaimed by Mejía-Trujillo, Pérez-Gómez y Reyes (2015).

Finally, the importance of the subject should

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narcotic drugs is less permissive and contains a justification based on studies that show that the consumption of psychoactive substances of natural origin are affecting the dignity of the to be human and to implant in the providences philosophical reflections on the loss of self-awareness when reaching addiction creating drug dependents until they become inhabitants of the street.

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