Executive Order n. 8,243 and the Brazilian National Policy for Social Participation: impacts on health

Decreto que institui a Política Nacional de Participação Social: impactos na saúde

Decreto que establece la política nacional de participación social: impactos en la salud

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Civil society's participation as a component of public policy formulation, implementation, evaluation, and monitoring is not a recent issue. According to the *Universal Declaration of Human Rights*, Article 21 [1]: "*Everyone has the right to take part in the government of his country, directly or through freely chosen representatives*". Article 1 of Brazil's 1988 Citizens' Constitution [2] recognizes this new institutional framework when it states: "*All power comes from the people, who exercise it through elected representatives or directly*".

Twenty-five years after passage of the 1988 Constitution, *Executive Order n. 8,243* [3] of May 23, 2014, created the National Policy for Social Participation (PNPS) and the National System for Social Participation, aimed at the creation, strengthening, and linkage of existing democratic structures for participation and their interface with the Federal government administration and civil society. The Executive Order thus regulates an existing Constitutional provision and does not extrapolate its own function.

Executive Order n. 8,243/2014 has been poorly received and interpreted by some sectors of Brazilian society and the National Congress, although the ruling merely extends to other sectors of the Federal government administration the same participatory dialogue already enjoyed by the health sector since the 8th National Health Conference [4]. Community participation is also acknowledged at the Constitutional level as an underlying principle of the Brazilian Unified National Health System, which resulted from gains achieved by the Brazilian Health Reform Movement in the 1970s and 1980s.

This new normative ruling provides for both permanent and ad hoc levels of participation. The permanent forms, already well-known to the health sector, include: public policy councils, public policy commissions, national health conferences, and the Federal public ombudsman's office. The ad hoc levels include dialogue roundtables, inter-council forums, and participatory mechanisms (already widely used by the Federal Executive Branch) such as public hearings and public consultations. A key feature is the virtual environment for social participation, which draws on information and communication technologies (ICTs) to promote dialogue between Federal government and civil society, especially given the scope and complexity of Brazil's territorial and social base.

The Executive Order innovates in the field of participation by greatly expanding the definition of civil society (Article 2, I), including the single citizen among the concept's classical collective elements. The concept of civil society works with a diversity of social actors, as well as with a plurality of political practices and projects, thereby

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reflecting the existing tensions and contradictions within society [5].

Worthy of note is the legal recognition of the Federal public ombudsman's office as an agency for participation. Beginning with the Executive Order, the public ombudsman's offices traditionally known as a communications channel between public agencies and the population have come to be seen as spaces for true participation. The information coming through the ombudsman's offices (complaints, suggestions, questions, praise, etc.) provide important inputs for public administrators in the decision-making process, since they also reveal the interests and expectations of civil society actors.

Still, the Executive Order's real innovation lies in its provision for ad hoc forms of participation, which can greatly benefit the health sector.

Article 6, section V presents the Dialogue Roundtable. Based on the description in Article 2, the Dialogue Roundtable is an alternative method for conflict prevention, mediation, and resolution.

The Dialogue Roundtable as a method for peaceful administration of conflict can avoid not only social conflicts in public policy areas, but also serve as a participatory mechanism for improving labor conditions and relations. Thus, the Dialogue Roundtable represents an effort to generate effective access to justice at all levels, a new mechanism and effort for mediation, especially given its voluntary participation (Article 14, IV) and tripartite format (Article 14, sole paragraph).

Dialogue Roundtables are defined as conflict resolution mechanisms with their legitimacy guaranteed by the social environment, generating greater political awareness and people's participation. According to Boaventura Santos [6] (p. 157), "*I do not see these conflict resolution mechanisms outside state control as intrinsically negative or opposed to democracy. On the contrary, they can be agents for the democratization of society*".

The inter-council forums are ad hoc meetings aimed at reviewing crosscutting themes. *Executive Order n. 8,243/2014* defines their scope for dialogue between representatives of public policy councils and commissions, allowing inter-council forums that prioritize inter-sector work and crosscutting solutions, which is beneficial, desirable, and necessary in the case of public policies in health.

As for public hearings, the decree fails to correct a key flaw that hinders participation by civil society and is the object of recurrent complaints in the health field: the lack of simple and objective language. However, if such a flaw exists, when dealing specifically with the issue in Article 16, in the overall guidelines of the PNPS (Article 3, section IV), the Order does not hesitate in defining as a right to information the objective and accessible use of wording and the language of the population engaged in the public hearing. As for public consultations, the Order explicitly highlights the use of simple and objective language in the document under review in the consultation (Article 17, section II).

Society's participation through public hearings and consultations has the merit of overcoming the inherent democratic deficit in the exercise of the normative function by the Executive Branch, thereby legitimating the decision-making process through discussion and collective dialogue.

A key innovation of the Executive Order is the creation of the Virtual Environment for Social Participation (Article 2, section X; Article 6, section IX; and Article 18). Although the forms of participation discussed above can occur through a virtual medium, as with public consultations for example, the ruling was intended to create an additional category for dialogue between civil society and Federal government, via the Internet.

The virtual environment was chosen to allow the expansion of space for dialogue in a diffuse and diverse format, with multiple actors and social networks, where participation would be difficult to achieve otherwise. Special attention is given to the use of appropriate technologies for different types of disabilities, allowing the inclusion of citizens previously excluded from direct democracy.

Although such virtual environments for social participation may not exist in health, in the future they may become highly useful in the debates and development of more universal and inclusive public policies in health, in keeping with Brazilian society's diversity and multiculturalism. In this sense, the Brazilian experience in promoting civil society participation in public policies for health has succeeded in achieving the three participatory dimensions described by Rousseau [7]: participation as education, participation as control and acceptance of collective decisions, and participation as integration.

Finally, we highlight that Brazil's participatory health model has set an example at the international level, given its great capillarity, achieved especially through the induction policy provided by *Law n. 8,142/1990*. In this scenario, the recent enactment of the Executive Order represents an important step for strengthening old and new spaces for collective discussion, no longer only for health policies, but now also in other public policy areas that have a close interface with health.

Contributors

M. C. Delduque e S. M. C. Alves wrote and revised the paper. S. G. Dallari wrote and performed the final review.

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